documents, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. GORTON, Mr. STEVENS, Mr. COCHRAN, and Mr. CAMPBELL):

S. 508. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 509. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, Colorado, authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 510. A bill to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes; to the Committee on Indian Affairs.

By Mr. DOMENICI (for himself and Mr. ABRAHAM):

S. 511. A bill to require the periodic review and automatic termination of Federal regulations; to the Committee on Governmental Affairs.

By Mr. GRASSLEY:

S. 512. A bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the medicare-dependent, small, rural hospital payment provisions, and for other purposes; to the Committee on Finance.

By Mr. HEFLIN:

S. 513. A bill to amend chapter 23 of title 28, United States Code, to authorize voluntary alternative dispute resolution programs in Federal courts, and for other purposes; to the Committee on the Judiciary.

By Mr. AKAKA:

S. 514. A bill for the relief of the heirs, successors, or assigns of Sadae Tamabayashi; to the Committee on the Judiciary.

By Mr. BRADLEY:

S. 515. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction of harmful substances in meat and poultry that present a threat to public health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 516. A bill to transfer responsibility for the aquaculture research program under Public Law 85–342 from the Secretary of the Interior to the Secretary of Agriculture, and for other purposes; to the Committee on Environment and Public Works.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CRAIG (for himself, Mr. MURKOWSKI, Mr. REID, Mr. BRYAN, Mr. DOMENICI, Mr. BURNS, Mr. THOMAS, Mr. HATCH, Mr. BENNETT, Mr. STEVENS, Mr. KEMPTHORNE, Mr. KYL, and Mr. PRESSLER):

S. 506. A bill to amend the general mining laws to provide a reasonable royalty from mineral activities on Federal lands, to specify reclamation requirements for mineral activities on Federal lands, to create a State program for the reclamation of abandoned hard rock mining sites on Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

MINING LAW REFORM ACT

Mr. CRAIG. Mr. President, in the last Congress, Members in the Senate and our colleagues in the other Chamber worked hard to reform the laws under which the U.S. mining industry operate on the vast Federal lands of the west. Members on both sides of the aisle, from all regions of the country, acknowledged that the mining law of 1872 needed change. While I was disappointed we did not pass legislation in the last Congress to reform mining law, I would have been more disappointed if Congress had accepted some of the reform proposals that were put forward at that time. The reason for my concern was the proposals offered at that time did not meet my primary test of fair legislation. That test is this country's mining industry that annually contributes approximately $53 billion to our economy will not be driven to economic ruin nor to operate only in other countries.

Today, I am introducing, a bipartisan bill in conjunction with Chairman MURKOWSKI, Senator REID and 10 other of my colleagues. The Mining Law Reform Act of 1995, is a bill which will ensure continued mineral production in the United States. It provides for a fair economic return from minerals extracted on public lands, and will link mining practices on Federal lands to State and Federal environmental laws and land-use plans. This bill provides a balanced and equitable solution to concerns raised over the existing mining law.

Mining in the United States is an important part of our Nation's economy. It serves the national interest by maintaining a steady and reliable supply of the materials that drive our industries. Revenue from mining fuels local economies by providing family income and preserving community tax bases. Mining has become an American success story. Fifteen years ago, U.S. manufacturers were forced to rely on foreign producers for 75 percent of the gold they needed. Today, the United States is more than self-sufficient. The domestic mining industry not only meets the demand, but produces a gold surplus of 36 percent, worth $1.5 billion in export balance of payments.

Mining, however, is a business associated with enormous up-front costs and marginal profits. Excessive royalties discourage, and in other countries have discouraged, mineral exploration. Too large a royalty would undermine the competitiveness of the mining industry. The end result of excessive Government involvement would be the movement of mining operations overseas and the loss of American jobs. The legislation I am introducing today will keep U.S. mines competitive and prevent the movement of U.S. jobs to other countries.

The general mining law is the cornerstone of U.S. mining practices. It establishes a useful relationship between industry and Government to promote the extraction of minerals from mineral rich Federal lands. Although the cornerstone of this law was originally enacted in 1872, it remains to function effectively today. The law has been amended and revised many times since its original passage. The legislation I am introducing today preserves the solid foundation provided by this law and makes some important revisions that address the concerns that have been paramount in this debate that I have been involved in for nearly a decade.

Specifically, the Mining Law Reform Act of 1995 will insure revenue to the Federal Government by imposing fair and equitable net royalties. It requires payment of fair market value for lands to be mined. It assures lands will return to the public sector it they are not developed for mineral production, as is intended in this legislation. Furthermore, to prevent mining interests from using patented land for purposes other than mining, the bill limits residential occupancy to that which is only necessary to carry out mining activities.

To ensure mining activities do not unnecessarily degrade Federal lands, the Mining Law Reform Act mandates compliance with all Federal State and local environmental laws with regard to land use and reclamation. To enforce these provisions, the bill includes civil penalties and the authority for compliance orders.

Finally, this bill creates a program to address the environmental problems associated with abandoned mines. Working directly with the States, the Mining Law Reform Act directs one-third of the royalty receipts to abandoned mine cleanup programs; another one-third of those receipts could be used by States if they so decided.

The legislation I am proposing today is in the best interest of the American people because it provides revenue from public resources, assures mines will be developed in an environmentally sensitive manner and that abandoned mines from earlier eras will be reclaimed. It is fair to mining interests because it imposes reasonable fees and royalties. It is good for the environment because it assures land use and reclamation activities. I ask my colleagues to join me in support of this legislation and look forward to hearings and Senate legislative action.

Mr. PRESSLER. Mr. President, I am pleased to join my colleagues today in introducing legislation to reform the mining law of 1872. I congratulate my distinguished friend, Senator LARRY CRAIG, for all of his hard work on this very important issue.

As a Senator from a State with significant mining activity, reform of the obsolete mining law of 1872 is imperative. There are currently 95 mining companies operating in the State of South Dakota, bringing in more than $321 million in gross State revenues. Many of these are small businesses.

The mining industry employs almost 2,500 South Dakotans.

I therefore represent many dedicated individuals who are an integral part of South Dakota's economy. I also represent a number of citizens who believe all mining activity should be stopped. In South Dakota, as in a number of States, citizens are deeply divided on issues related to mining.

However, my constituents are all in agreement on one basic point: the mining law of 1872 is outdated. It needs to be revised. I believe the legislation we are introducing today is a fair approach to reforming this antiquated law.

Mr. President, in my State of South Dakota, five major gold mining companies conduct large scale surface mining for gold on roughly 2,400 acres of land in the Black Hills. Current expansion proposals cover at least another 1,300 acres, including 800 acres of U.S. Forest Service land. Additionally, there are numerous exploratory drilling operations on Forest Service lands in the Black Hills.

Over the past few years, I have held many public meetings in South Dakota in which South Dakota mining operations were discussed. The problems inherent in the mining law of 1872 come up again and again at these meetings.

Many South Dakotans are particularly concerned about the existing land patent provisions and the extremely low fees required to purchase Federal land. Current law allows Federal land to be offered at a base price of $2.50 or $5.00 per acre. This is a virtual giveaway. Anyone who has visited the beautiful Black Hills National Forest in western South Dakota would certainly agree that those lands are worth far more. It is important that responsible mining activity be permitted. However, in this time of huge Federal deficit spending, it is time these fees were reformed to reflect good fiscal common sense.

This legislation takes care of that. It brings much needed revenue back to the Federal Government. This legislation mandates that the fair market value be charged for ownership of Federal lands. In addition, it imposes claim holding fees of $100 per year, per claim.

This legislation also would ensure that the Government gets paid for some of the value of what is in the land. It would impose a net royalty of 3 percent on proceeds from mining activity. This provision is based on the State-imposed net proceeds tax, which is working quite successfully in Nevada. It makes good economic sense.

Another issue South Dakotans always raise is reclamation. It is certainly important that we encourage responsible caretaking of South Dakota's Federal lands—both to maintain the health of the Black Hills National Forest, and to preserve its natural beauty. Who knows best how to take care of South Dakota's Federal lands than South Dakotans? That's why I support the provision of this bill which places the responsibility for developing reclamation standards in the hands of the States. Those of us here in Washington, from Members of Congress to Government bureaucrats, don't always know what is best for the Federal lands in South Dakota—or even Wyoming or Colorado. Each State is in a better position to judge for itself what is best for its own environmental well-being.

Last year, we spent a great deal of time working to develop a compromise on mining law reform. Unfortunately, we were unsuccessful in passing a final bill. I believe that this year's legislation incorporates many elements of last year's compromise. This bill has widespread support from the mining industry. It is sound legislation, and we should not delay in moving it forward.

On behalf of many South Dakotans, I urge my colleagues in the Senate to give this matter serious consideration. Many provisions of the 1872 mining law need to be revised. The dedicated miners of South Dakota and the rest of the country should no longer be asked to shoulder the burdens imposed by this antiquated law. I look forward to working with members of the Senate Committee on Energy and Natural Resources as they strive to make this bill into a fair and equitable mining reform law.

By Mr. PRESSLER:

S. 507. A bill to amend title 18 of the United States Code regarding false identification documents, and for other purposes; to the Committee on the Judiciary.

FALSE IDENTIFICATION ACT

Mr. PRESSLER. Mr. President, today I am pleased to reintroduce legislation designed to attack a growing problem: the use of false identification documents [ID's] by young people under 21 years of age. I introduced a similar bill late last year.

Several years ago, Congress conditioned Federal highway funding on the requirement that States have a minimum drinking age of at least 21 years. Since then, all 50 States have come into compliance. One consequence has been a dramatic increase in the use of false ID's by young people to illegally purchase alcoholic beverages. An illegal, underground black market has emerged, supplying cheap documents to satisfy this demand. The prevalence of counterfeit ID's poses a growing menace to the licensed beverage industry, and promotes alcohol abuse among young Americans.

With modern computer graphic programs, counterfeiting a driver's license is child's play for sophisticated computer users. On October 3, 1994, the Washington Times published a front-page article entitled ''Fake IDs surmount high-tech obstacles: Underage drinkers flock to buy them.'' The article describes how easily falsified identification documents can be created by computers and the steps various States are taking in response.

Several State driver's licenses, including Maryland and California, now include a hologram, two separate pictures, and a magnetic strip in an effort to make counterfeiting more difficult. However, even these measures are being duplicated with relative ease. It is time for Congress to take action.

The bill I am introducing today attacks this problem in two ways. First, it reduces, from five to three, the number of false identification documents that must be in an individual's possession before a prison sentence, a fine, or both, can be imposed under Federal law. Second, it requires a prison sentence, a fine, or both, for anyone convicted of using the mail to send a false ID to someone under 21 years of age.

Mr. President, let me explain both of these provisions in more detail. The first provision tightens current Federal law which provides penalties for knowingly possessing or transferring unlawfully five or more false identification documents. The number of false ID's necessary to trigger this law would be reduced from five to three. Someone convicted under this provision would face a fine of up to $15,000, imprisonment of up to 3 years, or both.

These days, it is far too easy and cheap to buy a fake ID. therefore, buying alcohol is not difficult for someone under 21. A recent report by the U.S. Department of Health and Human Services stated that ''minors can get state driver's license in Times Square in New York City for $10 to $15 each.'' Young people always have attempted to buy alcohol at an early age. Nothing Congress does will suppress the urge for alcohol in young people.

However, this bill is not directed at someone under 21 years of age who possesses one or two false ID's. We can do little to address the demand, but we can do something to reduce the supply. The Federal Government needs to crack down on those in the business of illegally producing and transferring false ID's. By stiffening Federal penalties for the production and distribution of false ID's, this bill will punish those who profit from teenage alcohol abuse and make obtaining false documents more difficult.

The second provision of this bill creates a new penalty for using the mails to distribute false ID's. Under this provision, anyone who knowingly sends an identification document showing an individuals to be 21 years old or older through the mails—without first verifying the individual's actual age—can be imprisoned for up to 1 year, be fined, or both. Verification can be satisfied by viewing a certification or other written communication confirming the age of the individual being identified.

This provision attempts to stem the interstate distribution of false ID's. Forty-six States currently have laws prohibiting youths from misrepresenting their age in order to purchase alcohol. But nothing prohibits minors from obtaining false ID's from other States

through the mail. Tough Federal action is necessary. This provision will affect businesses specializing in mail-order false ID's.

To conclude, let me say this legislation has the support of the National Licensed Beverage Association and the South Dakota Retail Liquor Dealers Association. I urge my colleagues to join them in supporting this legislation.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point. I also ask consent that several newspaper articles be included in the RECORD at the conclusion of my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. SHORT TITLE.

This Act may be cited as the ''False Identification Act of 1995.''

SEC. 2. MINIMUM NUMBER OF DOCUMENTS FOR CERTAIN OFFENSE.

Section 1028 of title 18, United States Code, is amended—

(1) in subsection (a)(3), by striking ''five'' and inserting ''3''; and

(2) in subsection (b)(1)(B), by striking ''five'' and inserting ''3''.

SEC. 3. REQUIRED VERIFICATION OF MAILED IDENTIFICATION DOCUMENTS.

(a) IN GENERAL.—Chapter 83 of title 18, United States Code, is amended by adding at the end the following:

§ 1739. Verification of identification documents

''(a) Whoever knowingly sends through the mails any unverified identification document that bears a birth date—

''(1) purporting to be that of the individual named in the document; and

''(2) showing such individual to be 21 years of age or older;

when in fact that individual has not attained the age of 21 years, shall be fined under this title or imprisoned not more than 1 year, or both.

''(b) As used in this section—

''(1) the term 'unverified', with respect to an identification document, means that the sender has not personally viewed a certification or other written communication confirming the age of the individual to be identified in the document from—

''(A) a governmental entity within the United States or any of its territories or possessions; or

''(B) a duly licensed physician, hospital, or medical clinic within the United States; and

''(2) the term 'identification document' means a card, certificate, or paper intended to be used primarily to identify an individual.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by adding at the end the following new item:

''1739. Verification of identification documents.''.

(c) CONFORMING AMENDMENT.—Section 3001(a) of title 39, United States Code, is amended by striking ''or 1738'' and inserting ''1738, or 1739''.

[From the Washington Times, Oct. 3, 1994]

FAKE IDs SURMOUNT HIGH-TECH OBSTACLES—UNDERAGE DRINKERS FLOCK TO BUY THEM

(By Matt Neufeld)

The high-tech revolution has helped boost one local cottage industry with a potentially lethal product: fake identification cards for underaged drinkers.

Illegal, falsified ID cards are prevalent among underage drinkers, especially college students, and their production flourishes no matter how many steps authorities take to make them difficult to copy, police and government officials say.

''Fake IDs are rampant,'' said Trina Leonard, an aide to Montgomery County Council member Gail Ewing, who is also chairwoman of the Maryland Underage Drinking Prevention Coalition. ''Fake IDs are an enormous problem among teenagers because they frequently are a passport to death and injury for kids.''

The use and manufacture of fake IDs has been a concern of parents, police and state motor vehicle authorities for decades. The problem surfaced again after Friday's announcement that three of the four Walt Whitman High School girls involved in the Sept. 6 double-fatal car crash in Potomac were carrying fake IDs.

The girls did not use their IDs that night, Montgomery County police said, but relied instead on another way in which teens procure alcohol: They had an adult buy 2½ cases of beer for them from a liquor store in Georgetown the night of the crash.

One mother of a boy who knew the girls later found four different phony IDs in her own son's wallet, she told friends.

Even as states take dozens of precautions in preparing high-technology licenses designed to be difficult to copy, technology-savvy students and underground counterfeiters match the authorities' steps in meticulous and frustrating ways.

''It continues to be a problem, because, as police say, no matter how tough they get, kids are smart and they always find a way to get them,'' said Tim Kime, a spokesman for the Washington Regional Alcohol Program, a private advocacy group.

''We live in the age of computers, and you can do wonderful things with a computer. You get the right background [cloth], the picture, the laminator, and you've got a pretty good ID,'' said Sgt. David Dennison, who heads the Prince George's County police collision analysis and reconstruction unit. The unit's responsibilities include drunken driving and underage drinking.

''You bet there's some computer geniuses out there at these colleges who find it very easy to do,'' Sgt. Dennison said. ''If they can print money with computers, driver's licenses aren't that hard.''

In the Potomac crash, driver Elizabeth Clark, 16, and a front-seat passenger, Katherine Zirkle, 16, were killed with Elizabeth's 1987 BMW hit a tree along River Road at 12:55 a.m.

Two friends riding in the back seat, Elinor ''Nori'' Andrews, 15, and Gretchen Sparrow, 16, were hospitalized with serious injuries but were released last week.

Police said Elizabeth had a blood-alcohol level of .17 percent, nearly double the .10 percent level that state law defines as driving while intoxicated. Katherine's blood-alcohol level was .03 percent police said.

In Maryland, minors with a blood-alcohol level of .02 percent can have their licenses taken on the spot.

Detecting homegrown phony IDs isn't always easy, authorities say.

''In fact some police officers on the street couldn't tell the difference unless they thoroughly examine them. You can be fooled,'' said Sgt. John Daly of the Metropolitan Police check and fraud division.

Earlier this year, Maryland introduced driver's licenses with holograms, two separate pictures and a magnetic strip in an effort to counter the counterfeiters.

''But the kids are duplicating those,'' said Ms. Leonard, the Montgomery council aide. ''A police officer told me that [soon] after those came out, a kid took electrical tape and put it on a fake ID.''

Although many high school students have fake IDs, police find that most of them are manufactured, distributed and used by college students. The IDs are bought, sold and distributed through an underground black market spread by word of mouth.

Area students often make or procure fake IDs in the form of licenses from far-away states such as Iowa or Kansas, thinking local businesses won't know the difference. A widely known legal guidebook available to businesses shows up-to-date pictures of licenses from every state, but police say that many merchants are too lazy to consult it.

THREE CHARGED IN FAKE-ID SCAM

CHARLOTTESVILLE.—Three former University of Virginia students have been charged in what police said was a scheme to pass stolen student identification cards and fraudulent checks.

Police at the University of North Carolina at Chapel Hill said the ring operated in two states. Based in Charlottesville, it included several former members of Alpha Phi Alpha, a service fraternity at the University of Virginia that was suspended in 1992 after a hazing incident.

Investigators believe the students stole about 400 UNC-Chapel Hill ID cards in January to pass stolen or counterfeited checks and to get state ID cards in North Carolina and Virginia.

North Carolina authorities last week charged Canu C. DiBona, 21, of Durham, N.C. with one count of felony financial transaction card theft. Marcus A. Tucker, 23, of Charlottesville was arrested Sept. 15 on several charges, including felony financial transaction card theft and two counts of forgery.

Authorities said Phillipe Zamore, 21, also of Charlottesville also was implicated in the scheme. He was arrested in April and charged with felony larceny after attempting to use an illegally obtained credit card at a University of Virginia bookstore.

Authorities said more arrests are expected.

Investigators said the cards reportedly have turned up as far away as New York and Florida. Near the UNC-Chapel Hill campus alone, the ring has used up to $20,000 in bad checks, Lt. Clay Williams of the campus police said.

Police said members of the alleged ring used sophisticated equipment to read information on magnetic tape on the backs of the IDs, and even printed their own checks with a laser printer.

''All these kids are smart—that's what's striking about this.'' Lt. Williams said. ''We have very intelligent young men—extremely computer literate, highly articulate—that could be upstanding professionals in the community, but instead they chose the lure of fast money.''

[From the St. Joseph's University (PA) Hawk, Mar. 15 1994]

BUSTED!—2 SJU STUDENTS ARRESTED IN FAKE I.D. RING

(By Maureen O'Connell)

The population of the state of New Jersey recently fluctuated by an estimated 100 to 200 citizens as students under the age of 21 obtained fraudulent drivers' licenses for that

state through an operation based on the ground floor of Sourin Residence Hall and the Adam's Mark Hotel last weekend.

St. Joseph's University Security and the Pennsylvania State Police stepped in to curb this rapid population boom and arrested six students and two juveniles directly connected with the scheme. Two of the six students, identified by The Philadelphia Inquirer as Salvatore Carollo and Carl Lynn, attend St. Joseph's and are residents of Sourin room 15. According to the Inquirer both were arraigned on Sunday evening on charges of forgery and manufacturing false identification.

The fake ID factory, which turned out near-authentic licenses with the help of advanced computer programming and other electronic devices at the cost of $100 a pop, was not a well kept secret and was quickly leaked to St. Joseph's University Security and the Pennsylvania State Police.

According to director of public safety and security Albert Hall, a ''top security'' officer discovered the operation during a shift on Friday evening.

''He notified me at home and had some very good information that this was happening,'' said Hall.

''By the sign-in logs it is pretty evident that it started on Thursday evening,'' said Hall.

''I decided we had a felony being committed and I knew we had to bring it to law enforcement's attention or we would be obstructing justice. I then called the Pennsylvania State Police and left a message. Later that evening, [an officer in the] Fraudulent Document Unit called and he was very interested in what was going on.''

Hall said that shortly after he made his call, the State Police received a call from an informed parent.

According to Hall, University security met with State Police the next morning, Saturday, at 8 a.m. to determine a strategy.

''A plan was devised to introduce a state trooper as a student and to have the Pennsylvania state trooper be sent through the process,'' said Hall.

The trooper joined students in the assembly line—he entered Sourin, gave the necessary personal information which was logged into a computer, trekked to the Adams Mark Hotel, was photographed, and received his ''bogus ID.''

Almost immediately, Security and the State Police entered Sourin while the State Police alone entered the Adam's Mark.

''We went through the room (in Sourin) and found the outside person who we believe to be responsible for typing information into the computer,'' said Hall. He also mentioned that the Police also found ''more electronic equipment.''

According to Hall, four St. Joseph's students were present in the room in Sourin. One was completely unconnected with the operation and consequently released. Two others were given non-traffic citations for summary offenses and the fourth was arrested for misdemeanors of fraud and manufacturing false documents.

Hall mentioned that three visiting students were also in the room, one of whom was released. The remaining two visitors were charged with felonies for fraud and manufacturing false documents.

''I have very good information that they have worked other schools in the Maryland area and I have put them in touch with the State Police,'' said Hall.

He also claimed that State Police seized ''what appeared to be back-up discs for information saved on computers.''

''Another group of St. Joseph's students who went to the Adam's Mark Hotel with the trooper were issued non-traffic citations,'' added Hall.

''Several other participants were charged with felonies at the Adam's Mark Hotel,'' he said.

According to Pennsylvania State Trooper Gant who has been involved in subsequent investigations, an additional 5 to 7 students were given non-traffic citations in the hotel.

Gant explained that these citations involve ''sliding fines'' up to $500 dollars, depending upon judicial decision.

''The people arrested were held at Eighth and Race awaiting arraignment until Sunday,'' said Hall. ''For the parties involved charged with felonies and misdemeanors there is a range of penalties from fines to jail sentences.''

Regardless of Commonwealth penalties, the University will subject the two arrested students to the traditional disciplinary system.

''Two St. Joseph's undergraduates arrested over the weekend in a counterfeit I.D. scheme have been suspended by the University pending further investigation and review,'' said director of external relations Joseph Lundardi in a press release on Monday. ''An internal disciplinary hearing will be conducted later this week, with findings and/or sanctions referred to the Vice President for Student Life and Provost.''

According to the Student Handbook both students committed the following major violations: 1) Misrepresentation of identity or age; forging or altering records including University identification card: 2.) Maliciously entering and/or using University premises, facilities or property without authorization. The two may also have violated the guest policy.

Possible sanctions for such violations include summary discipline dismissal, expulsion, suspension, removal from the residence community, disciplinary probation, restitution or fines.

The pair have been given the choice to appear before an administrator within the Student Life system or to have a hearing with the Peer Review Board. According to the Peer Review Board's handbook ''present attitude; past record (both positive and negative); severity of damage, injury, harm or destruction or potential for such; honesty, cooperation and willingness to make amends'' will all be taken into consideration when deliberating for sanctions.

Regardless of their fate, an undetermined number of students currently possess the false I.D.s and according to both Hall and Gant, the State Police have a record of names.

''The Police will be making a decision on how to handle the students who purchased these fraudulent New Jersey licenses,'' said Hall. ''The state police have alerted all liquor stores in the area to be on the lookout for those New Jersey. I.D.s which are distinguishable by a code which is on all of them,'' he added.

[From the St. Joseph's University (PA) Hawk, Mar. 25, 1994]

STUDENT ACCOUNTS OF RAID AND AFTERMATH

(By Jessica Hausmann)

Students were stunned this Saturday as police busted a fake ID ring centered in a room in Sourin, as well as in the Adam's Mark Hotel on City Avenue. Several St. Joe's students purchased ID's and some of them were understandably worried.

One student, who did not purchase an ID, was present in the room when the police arrived.

''The door gets kicked in (and they shout) 'Hit the floor! F.B.I., State Police! Everybody down, down!' just like a scene out of 'Cops','' said the student. ''They handcuffed me to one of the guys whose room it was, who I felt bad for because he didn't know the full impact of what was going on,'' he added.

Police spent some time in the room trying to sort out who was in charge. ''They recognized one of the girls as the person who takes the people from Sourin to the Adam's Mark. Her and the kid at the computer, those two played it cool and calm. Everybody else was flipping out. One kid was crying, bawling and he didn't even do anything. He was in there looking for one of his friends,'' said the student.

''Eventually they took three of us out, me, the other one and this girl. They didn't take us out in handcuffs or anything, they just took us in the police car, and took us down,'' explained the student. ''The cop was trying to get something out of the kids that would incriminate the other kids,'' he said.

''When they took us down to the station, at one point there was this St. Joe's official and he saw the one kid was crying and he went up to him and said, 'You better tell him everything you know if you want to stay in this school,''' the student reported.

The student said he was held for two and a half hours and then released. He claims that some of the agents looked very familiar to him.

''I recognized three undercover agents as people who I thought were St. Joe's students,'' he said.

He also claimed that this is not the only location this group has hit.

''I knew a guy whose sister came up for the weekend and she got the same exact ID from the same people at a different school,'' he said.

Some students who did purchase an ID at St. Joseph's, but were not present when the police arrived, are worried because of rumors of a computer disk containing all of the names of students who purchased the fake NJ licenses.

''I'm very nervous,'' said one student who purchased an ID on Friday. She reported that she paid $100 for the fake license.

''I went over to Sourin and went in the room. I filled out a sheet with all the information and someone entered it into a computer. They printed it out and I gave it to this guy. Then they took us to the Adam's Mark Hotel on the twelfth floor where all the camera stuff was set up. I signed a paper and then they took the picture. They ran it through these machines and five minutes later I had the ID,'' she explained.

The student had been signed into Sourin by a friend who lives in the building. She said it was obvious that not everyone could have been signed into the same room since it was fairly crowded.

''There were twelve people there when I was there,'' she noted.

One student reported that he had to sign a disclaimer stating that the license was not endorsed by the government or the New Jersey Department of Motor Vehicles. He claimed it also stated that all of the information given by the student was true to the best of his knowledge.

Another student reported purchasing a different kind of fake ID in the same room in Sourin prior to the scandal.

''I got a Virginia license in the same room almost a month ago for $60,'' reported the student. She intends to use the ID, but not around here.

Students who were not involved in the incident in any way were also affected. Some 21-year-old students with legitimate New Jersey licenses are concerned that it may become more difficult for them to get into area bars.

''I better be able to get into The Duck or I'm going to kill someone, said junior Chris

Ferland, who recently turned 21. Some students who are under 21 are worried that it will now be more difficult to obtain alcohol from places that previously did not card or that accepted fake IDs.

Students working for the admissions office as tour guides are also affected. The office has prepared them for possible difficulties they may encounter on tours as parents and perspective students ask them about the scandal itself or about a quote appearing in a front page article in Monday's Philadelphia Inquirer regarding the incident, in which a student is quoted as saying that there are no activities or events for students on campus during the weekend.

''They told us to be honest about what happened and to stress that there are activities on campus but that they are not alcohol related events and some students choose not to attend them or they choose to drink before they go to them,'' said junior tour guide Angie Faust.

Faust believes that this student's statement can hurt all St. Joe's students.

''What one student said can hurt our reputation as a school,'' she said.

By Mr. MURKOWSKI (for himself, Mr. BREAUX, Mr. GORTON, Mr. STEVENS, Mr. COCHRAN, and Mr. CAMPBELL):

S. 508. A bill to amend the Internal Revenue Code of 1986 to modify certain provisions relating to the treatment of forestry activities; to the Committee on Finance.

REFORESTATION TAX ACT

Mr. MURKOWSKI. Mr. President, I am pleased to be joined by Senators BREAUX, GORTON, STEVENS, COCHRAN, and CAMPBELL in introducing the Reforestation Tax Act of 1995. This legislation will encourage investment in and sound management of privately owned forest land.

Mr. President, our forests serve as the foundation of a multibillion dollar forest products industry. From lumber and construction materials to pulp and paper, timber provides a wide range of products that are essential to modern living. At the same time, our forests provide wildlife habitat, maintain watershed, and are used for a broad range of recreational activities, including fishing, hunting, hiking, and camping.

One of the challenges facing this country is ensuring that we have enough forests to meet our wildlife habitat and watershed needs as well as sustaining a reliable supply of timber for forest products. As harvest levels on public lands decline, we need to encourage private foresters to invest in and properly maintain their stock of trees.

Yet there is strong evidence that private and public tree replanting is declining. According to the U.S. Forest Service tree replanting and direct seeding has been steadily declining. Between 1980 and 1988, annual private tree planting increased from 1.76 million acres per year to 2.96 million acres per year. However, in every year since 1988, private tree replantings have continuously declined, reaching barely 2.04 million acres in 1993—one-third lower than in 1988.

The decline in private reforestation reflects the reality that this is a very long-term, high-risk business. Trees can take anywhere from 25 to 75 years to grow to maturity, depending on the type of tree and regional weather and soil conditions. The key to success is good management which is costly. And fire and disease can wipe out acres of trees at any time during the long growing period.

The legislation we are introducing today will boost private investment in forests and aid in the cost of maintaining these forests. Our legislation has four components:

Partial elimination of the tax on inflationary gains. The gain from the sale of private timber would be reduced by 3 percent for each year the timber is owned, up to a maximum reduction of 50 percent of the gain. This should protect long-term investors in forest land from being taxed on inflationary gains.

Doubling the reforestation tax credit. The current reforestation tax credit has been significantly eroded by inflation because it has not been increased in 15 years. Our bill doubles the amount of reforestation expenditures eligible for the credit—from $10,000 to $20,000—and indexes this amount for future inflation.

Amortization of reforestation expenses. The current law special 7-year amortization for up to $10,000 of forestation expenses also has not kept up with inflation since it was enacted in 1980. Our legislation increases this amount to $20,000 and indexes it for future inflation. In addition, it reduces the amortization period to 5 years.

Passive loss rules. Treasury regulations seriously discourage private forester from employing sound forest management practices. Our bill revises the regulations by providing that private foresters, like most other business entrepreneurs, can prove that they are materially participating in the forestry business.

Mr. President, there can be no doubt that passage of this legislation is a key to the preservation and expansion of investment in this vital natural resources. It has been endorsed by conservation, environmental and forestry organizations including the American Forest and Paper Association, the National Association of State Foresters, the Wilderness Society and the Natural Resources Defense Council.

I urge my colleagues to join us in this effort to encourage long-term investment in private forest land and cosponsor this important legislation.

I ask unanimous consent that the text of the bill and a list of the organizations supporting this legislation be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Reforestation Tax Act of 1995''.

SEC. 2. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 of the Internal Revenue Code of 1986 (relating to treatment of capital gains) is amended by adding at the end the following new section:

''SEC. 1203. PARTIAL INFLATION ADJUSTMENT FOR TIMBER.

''(a) IN GENERAL.—At the election of any taxpayer who has qualified timber gain for any taxable year, there shall be allowed as a deduction from gross income an amount equal to the qualified percentage of such gain.

''(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means the lesser of—

''(1) the net capital gain for the taxable year, or

''(2) the net capital gain for the taxable year determined by taking into account only gains and losses from timber.

''(c) QUALIFIED PERCENTAGE.—For purposes of this section, the term 'qualified percentage' means the percentage (not exceeding 50 percent) determined by multiplying—

''(1) 3 percent, by

''(2) the number of years in the holding period of the taxpayer with respect to the timber.

''(d) ESTATES AND TRUSTS.—In the case of an estate or trust, the deduction under subsection (a) shall be computed by excluding the portion (if any) of the gains for the taxable year from sales or exchanges of capital assets which, under sections 652 and 662 (relating to inclusions of amounts in gross income of beneficiaries of trusts), is includible by the income beneficiaries as gain derived from the sale or exchange of capital assets.''

(b) COORDINATION WITH EXISTING LIMITATIONS.—

(1) Subsection (h) of section 1 of such Code (relating to maximum capital gains rate) is amended by inserting after ''net capital gain'' each place it appears the following: ''(other than qualified timber gain with respect to which an election is made under section 1203)''.

(2) Subsection (a) of section 1201 of such Code (relating to alternative tax for corporations) is amended by inserting after ''net capital gain'' each place it appears the following: ''(other than qualified timber gain with respect to which an election is made under section 1203)''.

(c) ALLOWANCE OF DEDUCTION IN COMPUTING ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of such Code (relating to definition of adjusted gross income) is amended by adding after paragraph (15) the following new paragraph:

''(16) PARTIAL INFLATION ADJUSTMENT FOR TIMBER.—The deduction allowed by section 1203.''

(d) CONFORMING AMENDMENT.—The table of sections for part I of subchapter P of chapter 1 of such Code is amended by adding at the end the following new item:

''Sec. 1203. Partial inflation adjustment for timber.''

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to sales or exchanges after December 31, 1994.

SEC. 3. APPLICATION OF PASSIVE LOSS LIMITATIONS TO TIMBER ACTIVITIES.

(a) IN GENERAL.—Treasury regulations sections 1.469–5T(b)(2) (ii) and (iii) shall not apply to any closely held timber activity if the nature of such activity is such that the aggregate hours devoted to management of the activity for any year is generally less than 100 hours.

(b) DEFINITIONS.—For purposes of subsection (a)—

(1) CLOSELY HELD ACTIVITY.—An activity shall be treated as closely held if at least 80 percent of the ownership interests in the activity is held—

(A) by 5 or fewer individuals, or

(B) by individuals who are members of the same family (within the meaning of section 2032A(e)(2) of the Internal Revenue Code of 1986).

An interest in a limited partnership shall in no event be treated as a closely held activity for purposes of this section.

(2) TIMBER ACTIVITY.—The term ''timber activity'' means the planting, cultivating, caring, cutting, or preparation (other than milling) for market, of trees.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1994.

SEC. 4. AMORTIZATION OF REFORESTATION EXPENDITURES AND REFORESTATION TAX CREDIT.

(a) INCREASE IN MAXIMUM AMORTIZABLE AMOUNT.—Paragraph (1) of section 194(b) of the Internal Revenue Code of 1986 (relating to maximum dollar amount) is amended—

(1) by striking ''The aggregate'' and inserting ''(A) IN GENERAL.—The aggregate'',

(2) by striking ''$10,000 ($5,000'' and inserting ''$20,000 ($10,000'', and

(3) by adding at the end the following new subparagraph:

''(B) INFLATION ADJUSTMENT.—

''(i) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1995, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

''(I) such dollar amount, multiplied by

''(II) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1994' for 'calendar year 1992' in subparagraph (B) of such section.

''(ii) ROUNDING.—If any increase determined under clause (i) is not a multiple of $50, such amount shall be rounded to the next lowest multiple of $50.''

(b) DECREASE IN AMORTIZATION PERIOD.—

(1) IN GENERAL.—Section 194(a) of such Code is amended by striking ''84 months'' and inserting ''60 months''.

(2) CONFORMING AMENDMENT.—Section 194(a) of such Code is amended by striking ''84-month period'' and inserting ''60-month period''.

(c) AVAILABILITY OF DEDUCTION AND CREDIT TO TRUSTS.—Subsection (b) of section 194 of such Code is amended—

(1) by striking paragraph (3) and redesignating paragraph (4) as paragraph (3), and

(2) in paragraph (3) (as so redesignated)—

(A) by inserting ''AND TRUSTS'' after ''ESTATES'' in the heading, and

(B) by inserting ''and trusts'' after ''estates'' in the text.

(d) EFFECTIVE DATE.—

(1) AMORTIZATION PROVISIONS.—Except as provided in paragraph (2), the amendments made by this section shall apply to additions to capital account made after December 31, 1994.

(2) TAX CREDIT PROVISIONS.—In the case of the reforestation credit under section 48(b) of the Internal Revenue Code of 1986, the amendments made by this section shall apply to property acquired after December 31, 1994.

LIST OF COSPONSORING ORGANIZATIONS FOR RTA

American Forest and Paper Association.
Forest Industries Council on Taxation.
Forest Farmers Association.
Southern Forest Products Association.
Southeastern Lumber Manufacturers Association.
Maine Forest Products Council.
Small Woodland Owners Association of Maine.
Oklahoma Forestry Association.
Arkansas Forestry Association.
Southern State Foresters.
Georgia Forestry Association.
Louisiana Forestry Association.
North Carolina Forestry Association.
South Carolina Forestry Association.
Mississippi Forestry Association.
Texas Forestry Association.
Virginia Forestay Association.
American Pulpwood Association.
National Association of State Foresters.
Hardwood Manufacturing Association.
National Hardwood Lumber Association.
Hardwood Research Council.
Hardwood Forest Foundation.
Alabama Forestry Commission.
Stewards of Family Farms, Ranches and Forests.
The Wilderness Society.
The National Woodland Owners Association.
The Oregon Small Woodlands Association.
The Washington Farm Forestry Association.
1,000 Friends of Oregon.
The Idaho Forest Owners Association.
The Forest Landowners of California.
The National Resources Defense Council.

By Mr. CAMPBELL (for himself and Mr. BROWN):

S. 509. A bill to authorize the Secretary of the Interior to enter into an appropriate form of agreement with, the town of Grand Lake, CO., authorizing the town to maintain permanently a cemetery in the Rocky Mountain National Park; to the Committee on Energy and Natural Resources.

ROCKY MOUNTAIN NATIONAL PARK GRAND LAKE CEMETERY ACT

Mr. CAMPBELL. Mr. President, On January 26, 1915, Congress passed legislation creating a 265,726-acre Rocky Mountain National Park. In 1892, long before the park was created, the town of grand lake established a small, less than 5-acre community cemetery that lies barely 1,000 feet inside the western edge of the park. Apparently, in the early 1950's, the National Park Service took notice of the cemetery and issued the town a formal special use permit, which has been renewed over the years. In 1991, Rocky Mountain National Part apparently informed the town of grand lake that it would issue one final 5-year special use permit.

This 103-year-old cemetery has become part of the community's heritage. Grand Lake residents have very strong emotional and personal attachments to it and need to be assured of its continued use and designation as a cemetery. The current permit is due to expire in 1996. All parties have agreed that a more permanent solution was needed to meet the needs of the community and the resource preservation and protection intended by the establishment of the park.

Existing measures available to the National Park Service, including special use permit authority, do not provide for a permanent solution that satisfies both the park and the community. In addition, special uses apparently can only be permitted for a maximum period of 5 years. Given that the town and park agree that the small cemetery is a permanent use, continued renewal of a 5-year permit is not a realistic solution.

In an effort to avoid future difficulties, park and town representatives have agreed that this legislation would offer the best solution to this problem. Authorizing the continued existence of the cemetery with specific size and boundaries within the park also protects park resources. The community has expressed a strong willingness and desire to assume responsibility for permanent management of the cemetery. This legislation would authorize the development of an agreement to turn maintenance responsibilities for the cemetery and road over to the town, resulting in a financial savings to the park. It also recognizes the cultural significance of the cemetery and its strong ties with the history of the Grand Lake area, which includes the story of Rocky Mountain National Park.

This legislation would negate the need for repeated negotiations between the community and the National Park Service, and the chance for misunderstandings. The National Park Service and Grand Lake representatives have worked long and hard on developing this proposal. Enactment of this legislation would go a long way in maintaining and enhancing the spirit of cooperation and good will between park and community that has been achieved during the development of this resolution.

By Mr. MCCAIN (for himself and Mr. INOUYE):

S. 510. A bill to extend the authorization for certain programs under the Native American Programs Act of 1974, and for other purposes; to the Committee on Indian Affairs.

NATIVE AMERICAN PROGRAM REAUTHORIZATION

Mr. MCCAIN. Mr. President, I am pleased to have the vice chairman of the Committee on Indian Affairs, Senator INOUYE, join me today in introducing a bill to extend the authorization for certain programs under the Native American Programs Act of 1974. This program is administered by the Administration for Native Americans, or ANA, within the Department of Health and Human Services.

Each year ANA awards several hundred grants to Indian and Alaska Native tribes and other native communities and organizations for governance, social and economic development, and environmental mitigation projects. While modest in size, ANA grants have proven to be extremely valuable tools for tribes and other native community groups seeking to further their self-sufficiency. ANA and its grants are vital to many Indian and native communities. ANA has earned

strong support from Indian and Alaska Native tribes.

The authority for most of the grants distributed by ANA expires at the end of fiscal year 1995. Although the administration has requested funding for fiscal year 1996 at fiscal year 1995 levels, it has yet to forward a bill to Congress to reauthorize the act.

This important but small program should not be placed in jeopardy by the administration's distraction-of-the-month. Therefore, I am introducing this reauthorization bill without the benefit of the administration's request. The bill would simply extend by 4 years the general authority for ANA appropriations and by 3 years the authority for ANA tribal environmental quality grant appropriations. In both cases, the reauthorization would extend to fiscal year 1999 and the amounts authorized would remain unchanged. The Committee on Indian Affairs has scheduled a hearing on the bill for March 22, 1995, at 2:30 p.m. We hope to complete consideration of the bill by the end of March.

Mr. President, I urge my colleagues to join with me in enacting this reauthorization so that these important funds are not interrupted. I ask unanimous consent that a section-by-section summary and the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR NATIVE AMERICAN SOCIAL AND ECONOMIC DEVELOPMENT STRATEGIES GRANT PROGRAM.

Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) in subsection (2), by striking ''for fiscal years 1992, 1993, 1994, and 1995.'' and inserting ''for each of fiscal years 1995, 1996, 1997, 1998, and 1999.''; and

(2) in subsection (c), by striking ''and 1996,'' and inserting ''1996, 1997, 1998, and 1999,''.

SECTION-BY-SECTION SUMMARY

Section 1. Authorization of Appropriations of Native American Social and Economic Development Strategies Grant Program.

(1) General Grant Reauthorization. This subsection provides for a four year extension to fiscal year 1999 of the present authority to appropriate such sums as may be necessary for the purpose of carrying out the provisions of the Native American Programs Act of 1974 which do not otherwise have an express authorization of appropriation.

(2) Tribal Environmental Quality Grant Reauthorization. This subsection provides for a three year extension to fiscal year 1999 of the present authority to appropriate $8,000,000 for the purpose of carrying out the provisions Title 42, Section 2991b(d) of the United States Code relating to grants to improve tribal regulation of environmental quality.

By Mr. DOMENICI (for himself and Mr. ABRAHAM):

S. 511. A bill to require the periodic review and automatic termination of Federal regulations; to the Committee on Governmental Affairs.

REGULATORY SUNSET AND REVIEW ACT

Mr. DOMENICI. Mr. President, I am pleased to introduce the Regulatory Sunset and Review Act of 1995, a bill that requires all existing Federal regulations to terminate in 7 years and new regulations to terminate in 5 years unless the appropriate agency, after soliciting public input and with the direction and guidance from Congress and the Office of Management and Budget, determines the regulations are still relevant and necessary.

The purpose of this bill is to address the staggering volume of regulations promulgated each year and the enormous costs associated with these regulations that place such a financial and management burden on all Americans.

This bill could be termed a ''consumers'' bill. As regulations are promulgated by various Government agencies, the cost of complying with these regulations is estimated to be between $250 and $500 billion annually. As noted in the March 4, 1995, Washington Post article, ''The Myths That Rule us:''

> . . . economists are nearly unanimous in believing at least half the cost (of regulations) is passed on to consumers in the form of higher prices. Most of the rest is passed on to employees in the form of lower wages. . . . Put another way, regulation is a form of taxation that amounts to about $2,000 per year for the average U.S. household . . .

It is time we review these regulations to determine if they are necessary—if their benefits outweigh the costs, if they are duplicative, out-of-date, and if they are written in the most clear and unambiguous way possible.

Americans from all walks of life are affected by these regulations: small to large businesses, hospitals and schools, farmers and ranchers, and local, State, and tribal governments, to name but just a few. In the last two months of 1994 alone, 615 proposed and final regulations were published in the Federal Register. In all, the Federal Register totaled 68,107 pages in length in 1994. It is time to get a handle on these regulations to determine if they should be modified or eliminated, and this bill will respond to this need by establishing a mandatory review process by the agencies.

The importance of examining the thousands of existing regulations has been enunciated clearly by my constituents in New Mexico. In 1994, I created a Small Business Advocacy Council to advise me about the problems of small businesses and how Congress could address some of their concerns. The council held 7 meetings in 6 locations throughout the State of New Mexico, and more than 400 businesses participated in these meetings. The consistent theme at all of these meetings was the appearance of an adversarial relationship between the Federal Government and business, as well as the lack of accountability of regulatory agencies in their dealings with business.

A few weeks ago in Albuquerque, the Senate Small Business Committee kicked off a series of field hearings entitled ''Entrepreneurship in America.'' Many members of the Small Business Advocacy Council testified at this hearing and explained to Chairman CHRISTOPHER BOND how difficult it is to not only understand the regulations, but to comply with them.

As an example, one witness said that the EEOC performs audits to ensure that an employer is in compliance with title VII of the Civil Rights Act of 1964. The EEOC asks for a roster of employees to identify minority group, sex, and disabilities. The witness said, however, that while the information may be useful, an employer is unable to ask these questions of applicants or employees.

This is only one example, but over the past year, I can assure you that I have heard countless similar examples that point out the inconsistencies, duplications, and burdensome nature of these Government regulations. And, an important emphasis must be made: all the witnesses understood and supported the positive aspects of regulations—that they were developed with the best intentions for good purposes. The witnesses simply believe that there must be a better way than the present system.

I would like to mention briefly a report by the General Accounting Office [GAO], completed in June 1994, entitled ''Workplace Regulation—Information on Selected Employer and Union Experience.'' While I intend to devote more detail to this report at a later time, let me just mention that the GAO's finding were strikingly similar to the findings of the New Mexico Business Advocacy Council: Those interviewed called for the adoption of a more service-oriented approach to workplace regulation; an improvement to information access and educational assistance to employers, workers, and unions; and more input into agency standard setting and enforcement efforts. The report discussed the constantly changing and complex nature of regulations and that they are often ambiguous with an increased potential for lawsuits.

It is obvious the time has come to review these regulations in a concise and systematic way. The process needs an overhaul, and this bill is designed to help facilitate this restructuring.

I am pleased my distinguished colleague, Senator SPENCER ABRAHAM, is joining me in introduction of this timely measure, and I hope others will soon join us in this endeavor. This bill is almost identical to a measure introduced in the House last week by Representatives CHAPMAN, MICA, and DELAY, H.R. 994. As regulatory reform measures are considered in both Chambers, I believe the Regulatory Sunset and Review Act of 1995 will be an important component of these efforts.

I ask unanimous consent that a statement by Senator ABRAHAM be included as a part of the RECORD and that the text of the bill be printed following these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Regulatory Sunset and Review Act of 1995''.

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To require agencies to regularly review their regulations and make recommendations to terminate, continue in effect, modify, or consolidate those regulations.

(2) To require agencies to submit those recommendations to the Administrator of the Office of Information and Regulatory Affairs and to the Congress.

(3) To provide for the automatic termination of regulations that are not continued in effect after such review.

(4) To designate a Regulatory Review Officer within each agency, who is responsible for the implementation of this Act by the agency.

SEC. 3. REVIEW AND TERMINATION OF REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (c), the effectiveness of a regulation issued by an agency shall terminate on the applicable termination date under subsection (b), and the regulation shall have no force or effect after that termination date, unless the head of the agency—

(1) reviews the regulation in accordance with section 4;

(2) after the review, and at least 120 days before that termination date, submits in accordance with section 5(a) a preliminary report on the findings and proposed recommendations of that review in accordance with section 5(a)(2);

(3) reviews and considers comments regarding the preliminary report that are transmitted to the agency by the Administrator and appropriate committees of the Congress during the 60-day period beginning on the date of submission of the preliminary report; and

(4) after the 60-day period beginning on the date of submission of the preliminary report to the Congress, but not later than 60 days before that termination date, submits to the President, the Administrator, and the Congress, and publishes in the Federal Register—

(A) a final report on the review under section 4 in accordance with section 5(a)(3), and

(B) a notice extending the effectiveness of the regulation, with or without modifications, as of the end of the 60-day period beginning on the date of that publication.

(b) TERMINATION DATES.—For purposes of subsection (a), the termination date of a regulation is as follows:

(1) EXISTING REGULATIONS.—For a regulation in effect on the date of the enactment of the Act, the termination date is the last day of the 7-year period beginning on the date of the enactment of this Act.

(2) NEW REGULATIONS.—For a regulation that first takes effect after the date of the enactment of this Act, the termination date is the last day of the 5-year period beginning on the date the regulation takes effect.

(3) REGULATIONS CONTINUED IN EFFECT.—For a regulation the effectiveness of which is extended under subsection (a), the termination date is the last day of the 7-year period beginning on the date of publication of a notice under subsection (a)(4) for that extension.

(c) TEMPORARY EXTENSION.—The termination date under subsection (b) for a regulation may be delayed by not more than 6 months by the head of the agency that issued the regulation if the agency head submits to the Congress and publishes in the Federal Register a preliminary report that describes modifications that should be made to the regulation.

(d) RELATIONSHIP TO OTHER LAW.—Section 553 of title 5, United States Code, shall not apply to the extension or modification of a regulation in accordance with this Act.

SEC. 4. REVIEW OF REGULATIONS BY AGENCY.

(a) IN GENERAL.—The head of each agency shall, under the criteria set forth in subsection (b)—

(1) conduct thorough and systematic reviews of all regulations issued by the agency to determine if those regulations are obsolete, inconsistent, or duplicative or impede competition; and

(2) issue reports on the findings of those reviews, which contain recommendations for—

(A) terminating or extending the effectiveness of those regulations;

(B) any appropriate modifications to a regulation recommended to be extended; or

(C) any appropriate consolidations of regulations.

(b) CRITERIA FOR REVIEW.—The head of an agency shall review, make recommendations, and terminate or extend the effectiveness of a regulation under this section under the following criteria:

(1) The extent to which the regulation is outdated, obsolete, or unnecessary.

(2) The extent to which the regulation or information required to comply with the regulation duplicates, conflicts with, or overlaps requirements under regulations of other agencies.

(3) The extent to which the regulation impedes competition.

(4) Whether the benefits to society from the regulation exceed the costs to society from the regulation.

(5) Whether the regulation is based on adequate and correct information.

(6) Whether the regulation is worded as simply and clearly as possible.

(7) Whether the most cost-efficient alternative was chosen in the regulation to achieve the objective of the regulation.

(8) The extent to which information requirements under the regulation can be reduced, particularly for small businesses.

(9) Whether the regulation is fashioned to maximize net benefits to society.

(10) Whether the regulation is clear and certain regarding who is required to comply with the regulation.

(11) Whether the regulation maximizes the utility of market mechanisms to the extent feasible.

(12) Whether the condition of the economy and of regulated industries is considered.

(13) Whether the regulation imposes on the private sector the minimum economic burdens necessary to achieve the purposes of the regulation.

(14) Whether the total effect of the regulation across agencies has been examined.

(15) Whether the regulation is crafted to minimize needless litigation.

(16) Whether the regulation is necessary to protect the health and safety of the public.

(17) Whether the regulation has resulted in unintended consequences.

(18) Whether performance standards or other alternatives were utilized to provide adequate flexibility to the regulated industries.

(c) REQUIREMENT TO SOLICIT COMMENTS FROM THE PUBLIC AND PRIVATE SECTOR.—In reviewing regulations under this section, the head of an agency shall publish in the Federal Register a solicitation of comments from the public (including the private sector) regarding the application of the criteria set forth in subsection (b) to the regulation, and shall consider such comments, before making determinations under this section and sending a report under section 5(a) regarding a regulation.

SEC. 5. AGENCY REPORTS.

(a) PRELIMINARY AND FINAL REPORTS ON REVIEWS OF REGULATIONS.—

(1) IN GENERAL.—The head of an agency shall submit to the President, the Administrator, and the Congress and publish in the Federal Register a preliminary report and a final report for each review of a regulation under section 4.

(2) PRELIMINARY REPORT.—A preliminary report shall contain—

(A) specific findings of the agency regarding—

(i) application of the criteria set forth in section 4(b) to the regulation;

(ii) the need for the function of the regulation; and

(iii) whether the regulation duplicates functions of another regulation; and

(B) proposed recommendations on whether—

(i) the effectiveness of the regulation should terminate or be extended;

(ii) the regulation should be modified; and

(iii) the regulation should be consolidated with another regulation.

(3) FINAL REPORT.—A final report on the findings and recommendations of the agency head regarding extension of the effectiveness of the regulation and any appropriate modifications to the regulation shall include—

(A) a full justification of the decision to extend and, if applicable, modify the regulation; and

(B) the basis for all determinations made with respect to that extension or modification under the criteria set forth in section 4(b).

(b) REPORT ON SCHEDULE FOR REVIEWING EXISTING REGULATIONS.—Not later than 100 days after the date of the enactment of this Act, and on or before March 1, annually thereafter, the head of each agency shall submit to the Administrator and the Congress and publish in the Federal Register a report stating a schedule for the review of regulations in accordance with this Act. The schedule shall identify the review actions intended to be conducted during the calendar year in which such report is submitted.

SEC. 6. FUNCTIONS OF ADMINISTRATOR.

(a) IN GENERAL.—The Administrator shall—

(1) review and evaluate each report submitted by the head of an agency under section 5(a), regarding—

(A) the quality of the analysis in the reports;

(B) whether the agency has properly applied the criteria set forth in section 4(b); and

(C) the consistency of the agency action with actions of other agencies; and

(2) transmit to the head of the agency the recommendations of the Administrator regarding the report.

(b) GUIDANCE.—The Administrator shall provide guidance to agencies on the conduct of reviews and the preparation of reports under this Act.

SEC. 7. DESIGNATION OF AGENCY REGULATORY REVIEW OFFICERS.

(a) IN GENERAL.—The head of each agency shall designate an officer of the agency as the Regulatory Review Officer of the agency.

(b) FUNCTIONS.—The Regulatory Review Officer of an agency shall—

(1) be responsible for the implementation of this Act by the agency; and

(2) report directly to the head of the agency with respect to that responsibility.

SEC. 8. JUDICIAL REVIEW.

(a) LIMITATION OF ACTION.—Notwithstanding any other provision of law, an action seeking judicial review of an agency action under this Act extending, terminating, modifying, or consolidating a regulation shall not be brought after the 30-day period beginning on the date of the publication of a notice under section 3(a)(4) for that action.

(b) SCOPE OF REVIEW.—Agency compliance or noncompliance with the provisions of this Act shall be subject to judicial review only pursuant to section 706(1) of title 5, United States Code.

SEC. 9. DEFINITIONS.

For purposes of this Act:

(1) ADMINISTRATOR.—The term ''Administrator'' means the Administrator of the Office.

(2) AGENCY.—The term ''agency'' has the meaning given that term in section 551(1) of title 5, United States Code.

(3) APPROPRIATE COMMITTEE OF THE CONGRESS.—The term ''appropriate committee of the Congress'' means with respect to a regulation each standing committee of the Congress having authority under the rules of the House of Representatives or the Senate to report a bill to enact or amend the provision of law under which the regulation is issued.

(4) OFFICE.—The term ''Office'' means the Office of Information and Regulatory Affairs in the Office of Management and Budget.

(5) REGULATION.—The term ''regulation'' means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy, other than such a statement to carry out a routine administrative function of an agency.

Mr. ABRAHAM. Mr. President, I strongly support the legislation sponsored by my good friend from New Mexico, Senator PETE DOMENICI.

Not long ago we passed legislation that finally subjects Congress to most work place and other laws that affect the American people. I enthusiastically supported this legislation out of a sense of fundamental fairness: it seemed to me that the body that legislates rules for the rest of society at the very least ought to be obliged to follow those rules itself.

But I had another reason for supporting the accountability act. You see, it seemed to me that when Members of Congress actually had to confront and deal with some of the onerous regulations they have been imposing on the people of America they might decide that it was time to eliminate some of the overregulation that is strangling our economy.

For too long Congress has acted as if regulation is cost free, even though at the U.S. Chamber of Commerce's estimate, they cost our economy $510 billion a year—9 percent of our gross domestic product. For too long Congress has acted as if the burden of paperwork these regulations impose is either light or nonexistent when, according to the chamber of commerce, Federal regulations alone require 6.8 billion hours of paperwork to our businesses and entrepreneurs.

But the accountability act alone will not be enough because the sheer inertia of Government regulation continues to push our businesses, and small businesses in particular, into bankruptcy. We must cull the code books of regulations that are redundant, obsolete, unnecessarily costly and just plain unnecessary.

This Regulatory Sunset and Review Act will go a long way toward fighting the inertia of Government regulation by putting in place a mandatory review procedure for all regulations our bureaucrats want to see continued. It would place in each agency a review officer who would review all regulations, new and old, with the aid of Congress and the Office of Management and Budget.

All existing regulations would terminate within 7 years unless they pass a rigorous review process. For new regulations the initial sunset period would be 5 years. The goal would not be to eliminate all regulations, after all some regulations are needed to enforce statutes we have passed to protect Americans' health and safety as well as their rights. But we do not need regulations, and should not have them, unless as required by this act they are shown to be: necessary; more beneficial than costly; reasonable in their cost and other impact on consumers; clear and unambiguous; unlikely to cause unnecessary litigation; and reasonable in their burden on local, State and National economies.

Only by subjecting our regulations to rigorous, repeated review can we finally bring the spread of over-regulation under control. Only by setting up a standardized review procedure can we ensure that bureaucratic inertia and discretion no longer stifle our economy and our liberties.

I ask unanimous consent that a letter of endorsement for the Domenici-Abraham regulatory sunset bill from the National Federation of Independent Business be entered into the RECORD:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NFIB,
Washington, DC, March 6, 1995.

Hon. SPENCE ABRAHAM,
U.S. Senate, Washington, DC.

DEAR SENATOR ABRAHAM: On behalf of the more than 600,000 members of the National Federation of Independent Business, I am writing to support your legislation, the Regulatory Sunset and Review Act.

Government regulations constitute an enormous burden for small businesses. Even beneficial regulations are so complex that small business owners find it increasingly difficult to comply.

The Domenici-Abraham legislation will help curb the cost of federal regulations on small business by sunsetting them. Requiring a periodic justification for existing and future regulations is essential if small businesses are going to start-up, grow and expand while creating jobs all along the way.

With regulatory sunsetting regulations and the federal agencies responsible for them must justify their existence through a review process in order to keep them on the books. Necessary regulations would continue while others would be modified and the unnecessary would disappear.

The Domenici-Abraham regulatory sunset legislation is a concept NFIB members have been supporting for years. Seventy-seven percent of our members voted overwhelmingly to support reevaluating regulations on a frequent basis. We think the Domenici-Abraham approach is a balanced and fair approach to weeding out what works with what is unnecessary in the current regulatory system.

NFIB strongly supports your Regulatory Sunset and Review legislation. We look forward to working with you to pass this legislation.

Sincerely,

JOHN J. MORLEY III,
Vice President,
Federal Governmental Relations.

By Mr. GRASSLEY:

S. 512. A bill to amend title XVIII of the Social Security Act to provide for a 5-year extension of the Medicare-dependent, small, rural hospital payment provisions, and for other purposes; to the Committee on Finance.

MEDICARE DEPENDENT HOSPITALS PROGRAM EXTENSION ACT

Mr. GRASSLEY. Mr. President, I rise to introduce a bill which would extend the Medicare-dependent Hospital Program.

This program expired in October 1994. As its title implied, the hospitals it helped were those which were very dependent on Medicare reimbursement. These were small—100 beds or less—rural, hospitals with not less than 60 percent of total discharges or with 60 percent of total inpatient days attributable to Medicare beneficiaries. The program enabled the hospitals in question to choose the most favorable of three reimbursement methods.

This program was extended, and phased out down to October 1994, in the Omnibus Budget Reconciliation Act of 1993. That act retained the choice of the three original reimbursement methods. But it reduced the reimbursement available from those original computation methods by 50 percent.

My legislation would not extend the program as it was originally enacted by the Omnibus Budget Reconciliation Act of 1989. Rather, it would extend for 5 years the provisions contained in the Omnibus Budget Reconciliation Act of 1993. My bill would also extend those provisions retroactively. That is, as though the program had not expired in October 1994.

As I noted above, the hospitals which benefited from this program are small, rural, hospitals providing an essential point of access to hospital or hospital-based services in rural areas and small towns.

Obviously, as those of my colleagues who have followed, and participated in, our debates about the health care needs of rural areas know only too well, if we lose these hospitals, we will also have a hard time keeping physicians in those communities.

Mr. President, 44, or 36 percent, of Iowa's 122 community hospitals qualified to participate in this program, and 29, or 24 percent, chose to participate in 1994. I believe that this was the largest number of such hospitals of any State.

The percentage of all inpatient days attributable to Medicare patients is 77.4 percent for these hospitals, and Medicare discharges represent 65.5 percent of total discharges.

These Iowa hospitals will lose about $3 million dollars as a consequence of the expiration of this program, according to estimates made by the Iowa Hospital Association. The annual losses will vary from a low of $3,635 to a high of $248,016. Fourteen of these hospitals will lose $100,000 or more. Fourteen of these hospitals had negative operating margins in 1994. Those negative operating margins varied from minus $30,970 to minus $1,065,105. It is highly likely that the financial situation of these hospitals will be even worse in the coming years. Two of the hospitals with positive operating margins will probably begin to have negative margins with the expiration of the program.

The bottom line is that many of these hospitals are going to have a very difficult time continuing to exist when this program expires.

Mr. President, I am also going to work toward extension of the each/rpch program—the Essential Access Community Hospital and Rural Primary Care Hospital Program. If this program is extended to all the States, and if the Medicare-Dependent Hospital Program is extended, the smaller hospitals in Iowa would be able to modify their missions in a deliberate and nondisruptive way and continue to provide essential health care services in their communities.

By Mr. HEFLIN:

S. 513. A bill to amend chapter 23 of title 28, United States Code, to authorize voluntary alternative dispute resolution programs in Federal courts, and for other purposes; to the Committee on the Judiciary.

VOLUNTARY ALTERNATIVE DISPUTE RESOLUTION ACT

Mr. HEFLIN. Mr. President, I am today introducing legislation that would authorize our Nation's Federal district courts to adopt and utilize voluntary alternative dispute resolution programs.

The time has come for Congress and the Federal courts to realize that there must be alternative ways of settling disputes other than the traditional methods utilizing a Federal judge and jury. With criminal cases crowding the dockets, many litigants in civil cases, especially small businesses, simply cannot get their cases heard in a timely manner.

Recent statistics from the Administrative Office of the United States Courts indicate that a majority of cases in the Federal courts are civil cases and that the number of filings since 1990 has increased 9 percent. With criminal cases being put on a fast track, the time has come for Congress to assist the Federal courts in processing civil cases for the benefit of the American people.

Our Federal court system is one of the best in the world, and our judges work long hours to hear cases which come before them. I believe the approach that my legislation takes will bring the Federal courts into the 21st century ahead of schedule by expressing Congress' intent that if parties want to voluntarily settle their civil disputes by such methods as court annexed arbitration, meditation, early neutral evaluation, minitrials, or summary trials, then they should be allowed to do so.

I am introducing this legislation as a result of a hearing which the Judiciary Subcommittee on Courts and Administrative Practice held several months ago. I was privileged to Chair this subcommittee hearing which heard testimony from a number of distinguished witnesses including Judge Anne Williams, on behalf of the U.S. Judicial Conference; Judge Bill Wilson, U.S. District Court (E.D. Arkansas); Judge William Schwarzer on behalf of the Federal Judicial Center; U.S. Magistrate Judge Wayne Brazil (N.D. California); Judge Raymond Broderick (E.D. Pennsylvania); Stuart Grossman, on behalf of the American Board of Trial Advocates; Jack Watson, on behalf of the American Bar Association; and Dianne Nast, a practicing attorney in Philadelphia.

The focus of the hearing was to consider H.R. 1102, introduced by Congressman Bill Hughes of New Jersey, which would have required, not merely authorized, each of the 94 Federal district courts to adopt either a mandatory or a voluntary court-annexed arbitration program which would operate under the existing authority of Chapter 44, Sections 651–658 of Title 28 of the United States Code. H.R. 1102 would have increased the maximum amount in controversy for cases referred under the mandatory programs from $100,000 to $150,000.

In 1988, Congress enacted legislation to authorize the continuation of 10 pilot programs of mandatory court-annexed arbitration that were in operation in the Federal courts, and this legislation also authorized 10 additional pilot programs that would be of a voluntary nature.

This authorization was to terminate toward the end of 1993, and H.R. 1102 would have made that authorization permanent and would have required each district court to adopt either a mandatory or a voluntary program of court-annexed arbitration. Because of strong concerns raised at the hearing regarding the mandatory nature of court-annexed arbitration, our subcommittee was unwilling to immediately go forward with H.R. 1102. Instead, S. 1732, which became Public Law 103–192, was introduced toward the end of 1993, which simply extended the existing authority for one year with regard to the 20 pilot districts utilizing court-annexed arbitration.

In early August last year, I, along with my colleagues Senators BIDEN, HATCH, GRASSLEY, and SPECTER, introduced S. 2407, the Judicial Amendments Act of 1994, to extend this authority for an additional 3 years until the end of 1997. S. 2407 was introduced and passed by the Senate on August 19, and sent to the House of Representatives which also passed it at the close of session. It was signed by the President on October 25, 1994, and became Public Law 103–420.

Let me return now to the hearing which the subcommittee held in October 1993 and which focused primarily on arbitration which is one of the programs of ADR as alternative dispute resolution is popularly called. Judge Ann Claire Williams of the U.S. District Court for the Northern District of Illinois appeared on behalf of the U.S. Judicial Conference which is the policymaking body of the Federal judiciary. The Judicial Conference has recommended that Congress should authorize all Federal district courts to have the discretion to utilize voluntary nonbinding court-annexed arbitration. Thus, the judicial Conference did not recommend the expansion of mandatory court-annexed arbitration for the remainder of the Federal district courts.

The legislation which I am introducing today builds on the recommendation of the Judicial Conference by authorizing each of the 94 Federal district courts to adopt not only voluntary court-annexed arbitration but also other ADR programs, including but not limited to mediation, early neutral evaluation, minitrials, summary jury or bench trials.

My legislation also contains a provision that clearly states that ''[a]n alternative dispute resolution program shall not in any way infringe on a litigant's right to trial de novo and shall impose no penalty on participating litigants.''

Over the last year, I have talked with many people from both the bar and the business community, and I believe that it is an undeniable fact that civil litigation in the Federal courts has become more complicated, time-consuming, and expensive. Further, the Speedy Trial Act, requiring criminal cases to proceed on a fast track, has resulted in delays in civil cases being considered by the Federal courts.

I want to make certain that the Congress clearly intends for our Federal courts to consider alternative means of dispute resolution, so that litigants can have a speedy and less expensive alternative to formal civil adjudication, consistent with the requirements of the seventh amendment to the U.S. Constitution. Where parties are willing

to mutually participate in such alternatives, I believe there are merits that justify our support for such programs.

I hope that this legislation will be carefully considered by my colleagues, and I look forward to further discussion on its merits in the days ahead.

By Mr. AKAKA:

S. 514. A bill for the relief of the heirs, successors, or assigns of Sadae Tamabayashi; to the Committee on the Judiciary.

RELIEF FOR THE FAMILY OF SADAE TAMABAYASHI

Mr. AKAKA. Mr. President, I rise to introduce a bill for the relief of the family of Sadae Tamabayashi.

In 1941, Mrs. Tamabayashi was the owner of Paradise Clothes Cleaning Shop in Honolulu, HI. On the fateful morning of December 7, she and her family lost everything that they owned. The attack on Pearl Harbor not only had national repercussions, it affected the lives of many individuals as well, especially those who lived in Hawaii at the time. For Sadae Tamabayashi and her family, the bombing was devastating to their livelihood.

On the morning of December 7, Paradise Clothes Cleaning Shop was destroyed by fire which started as a result of the attack on Pearl Harbor and the subsequent retaliatory shots by U.S. Armed Forces. The entire building and its contents, which included the Tamabayashi's family quarters, were destroyed.

The Tamabayashi family attempted to seek compensation through the War Damage Corporation Claims Service Office in 1942. Their efforts were to no avail. Their claim for reparations was denied by the corporation because Mrs. Tamabayashi was a Japanese national. However, Mrs. Tamabayashi was prohibited from becoming a citizen under the Immigration Act of 1924, which excluded persons of Japanese descent. It was not until 1952, 7 years after the end of World War II, that the 1924 Immigration Act was repealed, and Asians were finally given equal citizenship status in this country.

The family of Sadae Tamabayashi seeks fair treatment of their mother's losses. I hope that my colleagues will support this effort to bring to a close this sad chapter in the lives of the Tamabayashi family.

By Mr. BRADLEY:

S. 515. A bill to amend the Federal Meat Inspection Act and the Poultry Products Inspection Act to provide for improved public health and food safety through the reduction of harmful substances in meat and poultry that present a threat to public health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FAMILY FOOD PROTECTION ACT

Mr. BRADLEY. Mr. President, let me tell you about Katie O'Connell. Katie's picture ended up on postcards that thousands of Americans have sent and will be sending to Washington. Neither her parents nor I are glad that this is the case. You see, Katie was a beautiful, happy, 2-year-old girl from my home State of New Jersey. Yet, she died from eating a hamburger served at a fast food restaurant. Unknown to anyone, her meal was contaminated with a deadly pathogen called E coli. Sadly, the meat that Katie ate had been declared safe by inspectors from the U.S. Department of Agriculture.

Katie died from a disease that should have been detected through our Federal meat inspection system. Katie is no longer alive because that system failed her and her family, and has failed thousands of others across the country. The legislation I am introducing today, the Family Food Protection Act, is designed to ensure a Federal system that protects the public and not just meat processors and slaughterhouses.

Diseases cause by foodborne illness often strike those most vulnerable in our society: our children. Last summer, health officials in New Jersey battled another outbreak of the disease that killed Katie O'Connell. One family the McCormick's of Newton, NJ, had two of their children—ages 2 and 3—hospitalized. Their lives were in danger because they too ate meat that had been declared safe by Federal inspectors in the Department of Agriculture.

These cases in New Jersey are far from isolated: The Centers for Disease Control estimates that over 9,000 people die, and another 6.5 million become sick, from foodborne illness every year.

That the current system represents a false promise to the public is not news. Many studies, including work by the GAO and the National Academy of Science, make this point.

About 1 month ago, the USDA proposed a series of new regulations for food inspection. These rules would require a daily testing for salmonella at meat/poultry processing plants. Additionally, each of the Nation's 6,000 slaughterhouses and processing plants would have to develop operating plans designed to minimize the possible sources of contamination.

This proposal represents a significant improvement over the current system—which has remained remarkably unchanged for 90 years. However, the proposal leaves some significant holes. The Family Food Protection Act fills the holes:

First, the Family Food Protection Act is comprehensive—we need to recognize the scope of the problem. It's not just salmonella. We need USDA to consider the whole range of human pathogens—bacteria—and other harmful substances—for example animal drugs, pollutants—that can threaten health. My bill calls on the Secretary to enact standards and regulations designed to control and reduce any of these dangerous substances that is likely to cause foodborne illness.

Second, the Family Food Protection Act gives the Secretary the enforcement tools he needs—the bill allows the Secretary: to order a recall of contaminated food; to demand the identification of the whole chain of companies that may have handled a contaminated food—''traceback''; to withdraw Federal inspection, and the USDA seal of approval from plants that are repeated violators of regulations; to issue civil fines, which makes it more likely that the processors will follow through with their improved operating procedures.

Third, the Family Food Protection Act helps protect the conscientious worker—the new USDA regulations depend on changes in the daily operations of thousands of plants to protect the public. In order to provide the most protection to the public, we need the cooperation of workers as well as managers. This bill provides explicit whistleblower protection to food processing employees who step forward with public health concerns.

Fourth, the Family Food Protection Act keeps the public involved and informed—this bill would: provide for public access to food safety inspection records; create a public advisory board of food safety.

Last Congress, Congressman TORRICELLI and I introduced the Katie O'Connell Safe Food Act. Like most legislation, that bill didn't make it into law. But that fact does not mean that we haven't changed policy as a result. This bill exposed the inadequacies of the status quo and shook up the bureaucrats at USDA.

I'm pleased that the USDA is trying to respond to the challenge of food safety. But the USDA has much more to do before the public can really believe their program means a guarantee of healthy food. This new bill is the blueprint for the work yet to be done.

The Family Food Protection Act is supported by a wide range of consumer and food safety advocacy groups. I urge my colleagues in the Senate to consider this legislation carefully and support its enactment.

I ask unanimous consent that a copy of a bill summary and the legislation be printed following these remarks.

There being no objection, the materials was ordered to be printed in the RECORD, as follows:

S. 515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Family Food Protection Act of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings.
TITLE I—MEAT INSPECTION
Sec. 101. References to the Federal Meat Inspection Act.
Sec. 102. Definitions.
Sec. 103. Inspection of meat and meat food products.

Sec. 104. Post mortem examination of carcasses and marking or labeling.
Sec. 105. Storage and handling regulations.
Sec. 106. Federal and State cooperation.
Sec. 107. Auxiliary provisions.
Sec. 108. Reducing adulteration of meat and meat food products.

TITLE II—POULTRY INSPECTION

Sec. 201. References to the Poultry Products Inspection Act.
Sec. 202. Definitions.
Sec. 203. Federal and State cooperation.
Sec. 204. Ante mortem and post mortem inspection, reinspection, and quarantine.
Sec. 205. Exemptions.
Sec. 206. Reducing adulteration of poultry and poultry products.

SEC. 2. FINDINGS.

Congress finds that—

(1) bacterial foodborne illness exacts a terrible toll on United States citizens, taking approximately 9,000 lives each year and causing between 6,500,000 and 80,000,000 illnesses;

(2) meat and meat food products, and poultry and poultry products, contaminated with pathogenic bacteria are a leading cause of foodborne illness;

(3) foodborne illness related to meat and poultry cost Americans between $2,000,000,000 and $4,000,000,000 each year in medical expenses and lost wages;

(4) the number of illnesses and deaths associated with adulterated meat and poultry undermines public confidence in the food supply of the United States and tends to destroy both domestic and foreign markets for wholesome meat and poultry;

(5) the meat and poultry inspection system costs United States taxpayers approximately $600,000,000 per year but does not provide adequate protection against foodborne illness because the system does not test for and limit the presence of disease-causing bacteria;

(6) the Federal Government must—

(A) set levels of disease-causing bacteria above which meat and meat food products and poultry and poultry products are determined to be unsafe for human consumption and adulterated; and

(B) remove the products from commerce unless and until the products are made safe;

(7) beginning with the National Academy of Sciences report entitled ''Meat and Poultry: The Scientific Basis for the Nation's Program'', the United States Department of Agriculture has been urged to shift from organoleptic inspection to inspection based on the detection and limitation of disease-causing bacteria;

(8) to sustain the confidence of the people of the United States and justify the expenditure of tax dollars, the inspection system must—

(A) be based on sound application of modern science;

(B) effectively protect human health;

(C) be open to public scrutiny;

(D) create incentives for high standards;

(E) provide for fines for failure to meet standards; and

(F) assess severe penalties for intentional violation of the law;

(9) a modern system of meat and poultry inspection should extend from farm to table and require livestock and poultry producers, handlers, processors, distributors, transporters, and retailers to assume responsibility for handling livestock, meat, meat food products, poultry, and poultry products in such a way as to limit contamination to a level that will not endanger human health;

(10) to effectively protect human health, there must be an orderly transition from the system of inspection in effect on the date of enactment of this Act to a new system based on preventive controls that are designed to limit the presence of disease-causing bacteria on meat, meat food products, poultry, and poultry products, and the efficacy of the new system must be demonstrated by pilot projects;

(11)(A) consumer confidence is further undermined by the ''USDA Inspected and Passed'' seal that appears on every package of meat or a meat food product and the ''USDA Inspected for Wholesomeness'' seal that appears on every package of poultry and poultry products, a seal that misleads consumers into believing the products are safe when the products often are contaminated with disease-causing bacteria; and

(B) the Federal Government should not affix a seal that misleads consumers and may increase the incidence of foodborne illness and death; and

(12)(A) all articles and other animals that are subject to the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) are in interstate or foreign commerce or substantially affect commerce; and

(B) regulation by the Secretary of Agriculture and cooperation by the States, consistent with this Act and the amendments made by this Act, are necessary to prevent or eliminate burdens on commerce and to protect the health and welfare of consumers of the United States.

TITLE I—MEAT INSPECTION

SEC. 101. REFERENCES TO THE FEDERAL MEAT INSPECTION ACT.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), except to the extent otherwise specifically provided.

SEC. 102. DEFINITIONS.

(a) ADULTERATED.—Section 1(m)(1) (21 U.S.C. 601(m)(1)) is amended to read as follows:

''(1) if it bears or contains a poisonous or deleterious substance that may render it injurious to health, except that, in the case of a substance that is not an added substance, the article shall be considered adulterated under this subsection if there is a reasonable probability that the quantity of the substance in the article will cause adverse health consequences;''.

(b) ADDED SUBSTANCE; OFFICIAL ESTABLISHMENT.—Section 1 is amended by adding at the end the following:

''(w) The term 'added substance'—

''(1) means a substance that is not an inherent constituent of a food and whose intended use results, or may reasonably be expected to result, directly or indirectly, in the substance becoming a component of, or otherwise affecting the characteristics of, the food; and

''(2) includes—

''(A) a substance that is intentionally added to any food; or

''(B) a substance that is the result of microbial, viral, environmental, agricultural, industrial, or other contamination.

''(x) The term 'official establishment' means an establishment at which inspection of the slaughter of cattle, sheep, swine, goats, mules, and other equines, or the processing of meat and meat food products of the animals, is maintained in accordance with this Act.''.

SEC. 103. STORAGE AND HANDLING REGULATIONS.

The last sentence of section 24 (21 U.S.C. 624) is amended by inserting before the period at the end the following: '', except that regulations issued under section 503 shall apply to a retail store or other type of retail establishment''.

SEC. 104. FEDERAL AND STATE COOPERATION.

Section 301(c) (21 U.S.C. 661(c)) is amended—

(1) in paragraph (1)—

(A) in the first sentence—

(i) by inserting after ''the Wholesome Meat Act,'' the following: ''or by 30 days prior to the expiration of the 2-year period beginning on the date of enactment of the Family Food Protection Act of 1995,''; and

(ii) by striking ''title I and IV'' and inserting ''titles I, IV, and V'';

(B) by striking ''titles I and IV'' each place it appears and inserting ''titles I, IV, and V''; and

(C) by striking ''title I and title IV'' each place it appears and inserting ''titles I, IV, and V''; and

(2) in paragraph (3), by striking ''titles I and IV'' each place it appears and inserting ''titles I, IV, and V''.

SEC. 105. AUXILIARY PROVISIONS.

Sections 402 and 403 (21 U.S.C. 672 and 673) are amended by striking ''title I or II'' each place it appears and inserting ''title I, II, or V''.

SEC. 106. REDUCING ADULTERATION OF MEAT AND MEAT FOOD PRODUCTS.

The Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following:

''TITLE V—REDUCING ADULTERATION OF MEAT AND MEAT FOOD PRODUCTS

''SEC. 501. REDUCING ADULTERATION OF MEAT AND MEAT FOOD PRODUCTS.

''(a) IN GENERAL.—On the basis of the best available scientific and technological data, the Secretary shall issue regulations to—

''(1) limit the presence of human pathogens and other potentially harmful substances in cattle, sheep, swine, or goats, or horses, mules, or other equines at the time the animals are presented for slaughter;

''(2) ensure that appropriate measures are taken to control and reduce the presence and growth of human pathogens and other potentially harmful substances on carcasses and parts of carcasses and on meat or meat food products derived from the animals prepared in any official establishment;

''(3) ensure that all ready-to-eat meat or meat food products prepared in any official establishment preparing the meat or food product for distribution in commerce are processed in such a manner as to destroy any human pathogens and other potentially harmful substances that are likely to cause foodborne illness; and

''(4) ensure that meat and meat food products, other than meat and meat food products referred to in paragraph (3), prepared at any official establishment preparing meat or a meat food product for distribution in commerce are labeled with instructions for handling and preparation for consumption that, when adhered to, will destroy any human pathogens or other potentially harmful substances that are likely to cause foodborne illness.

''(b) NONCOMPLIANCE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), a carcass or part of a carcass, or meat or a meat food product, prepared at any official establishment preparing the article for distribution in commerce, that is found not to be in compliance with the regulations issued under paragraph (2), (3), or (4) of subsection (a) shall be—

''(A) considered adulterated and determined to be condemned; and

''(B) if no appeal is made to the determination of condemnation, destroyed for human food purposes under the supervision of a duly authorized representative of the Secretary.

''(2) REPROCESSING OR LABELING.—A carcass or part of a carcass, or meat or a meat food

product that is not in compliance with paragraph (2), (3), or (4) of subsection (a), but that may by reprocessing or labeling, or both, be made not adulterated, need not be condemned and destroyed if after reprocessing or labeling, or both, as applicable and as determined by the Secretary, under the supervision of a duly authorized representative of the Secretary, the carcass, part of a carcass, meat, or meat food product is subsequently inspected and found to be not adulterated.

''(3) APPEALS.—

''(A) ACTION PENDING APPEAL.—If an appeal is made to a determination of condemnation, the carcass, part of a carcass, meat, or meat food product shall be appropriately marked, segregated, and held by the official establishment pending completion of an appeal inspection.

''(B) CONDEMNATION SUSTAINED.—If the determination of condemnation is sustained, the carcass, part of a carcass, meat, or meat food product if not so reprocessed or labeled, or both, under paragraph (2) so as to be made not adulterated, shall be destroyed for human food purposes under the supervision of a duly authorized representative of the Secretary.

''(c) HUMAN PATHOGENS AND OTHER HARMFUL SUBSTANCES.—Not later than 1 year after the date of enactment of this title, the Secretary shall issue regulations that—

''(1) require meat and meat food products in an official establishment to be tested, in such manner and with such frequency as the Secretary considers necessary, to identify human pathogens, or markers for the pathogens, and other potentially harmful substances in the meat and meat food products;

''(2) require that the results of any test conducted in accordance with paragraph (1) be reported to the Secretary, in such manner and with such frequency as the Secretary considers necessary;

''(3)(A) establish interim limits for human pathogens and other potentially harmful substances that, when found on meat or meat food products, may present a threat to public health; and

''(B) in carrying out subparagraph (A)—

''(i) establish interim limits that are below the industry mean as determined by the Secretary for the pathogen or other potentially harmful substance established through national baseline studies; and

''(ii) reestablish the interim limits every two years after the initial interim limits until the regulatory limits referred to in subsection (d)(2), tolerances, or other standards are established under this Act or other applicable law; and

''(4) prohibit or restrict the sale, transportation, offer for sale or transportation, or receipt for transportation of any meat or meat food products that—

''(A) are capable of use as human food; and

''(B) exceed the regulatory limits, interim limits, tolerances, or other standards established under this Act or other applicable law for human pathogens or other potentially harmful substances.

''(d) RESEARCH AND REGULATORY LIMITS.—

''(1) RESEARCH ON FOOD SAFETY.—The Secretary, acting through the Under Secretary of Agriculture for Food Safety, shall conduct or support appropriate research on food safety, including—

''(A) developing and reevaluating appropriate limits for human pathogens or other potentially harmful substances that when found on meat and meat food products prepared in official establishments may present a threat to public health;

''(B) developing efficient, rapid, and sensitive methods for determining and detecting the presence of microbial contamination, chemical residues, and animal diseases that have an adverse impact on human health;

''(C) conducting baseline studies on the prevalence of human pathogens or other potentially harmful substances in processing facilities; and

''(D) conducting risk assessments to determine the human pathogens and other potentially harmful substances that pose the greatest risk to human health.

''(2) REGULATORY LIMITS FOR HUMAN PATHOGENS AND OTHER HARMFUL SUBSTANCES.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this title, the Secretary of Health and Human Services shall establish regulatory limits, to the maximum extent scientifically supportable, for human pathogens and other potentially harmful substances, including heavy metals, that, when found as a component of meat or meat food products prepared in official establishments, may present a threat to public health.

''(B) RISK TO HUMAN HEALTH.—In establishing the regulatory limits, the Secretary of Health and Human Services shall consider the risk to human health, including the risk to children, the elderly, individuals whose immune systems are compromised, and other population subgroups, posed by consumption of the meat or meat food products containing the human pathogen or other potentially harmful substance.

''(C) FUNDING.—The Secretary of Agriculture shall annually transfer to the Secretary of Health and Human Services an amount, to be determined by the Secretaries, to defray the cost of establishing the regulatory limits.

''(e) SURVEILLANCE AND SAMPLING SYSTEMS.—

''(1) SURVEILLANCE SYSTEM.—In conjunction with the Director of the Centers for Disease Control and Prevention and the Commissioner of Food and Drugs, the Secretary shall develop and administer an active surveillance system for foodborne illness, that is based on a representative sample of the population of the United States, to assess more accurately the frequency and sources of human disease in the United States associated with the consumption of food products.

''(2) SAMPLING SYSTEM.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this title, the Secretary shall establish a sampling system, using data collected under subsection (c)(2) and other sources, to analyze the nature, frequency of occurrence, and quantities of human pathogens and other potentially harmful substances in meat and meat food products.

''(B) INFORMATION.—The sampling system shall provide—

''(i) statistically valid monitoring, including market basket studies, on the nature, frequency of occurrence, and quantity of human pathogens and other potentially harmful substances in meat and meat food products available to consumers; and

''(ii) such other information as the Secretary determines may be useful in assessing the occurrence of human pathogens and other potentially harmful substances in meat and meat food products.

''(C) NONCOMPLIANCE.—If a sample is found to exceed regulatory limits, interim limits, tolerances, or standards established under this Act or other applicable law, the Secretary shall take action to prevent violative products from entering commerce or to remove the violative products from the market.

''(f) REVIEW AND CONSULTATION.—

''(1) REVIEW.—The Secretary shall review, at least 2 years, all regulations, processes, procedures, and methods designed to limit and control human pathogens and other potentially harmful substances present on or in carcasses and parts of carcasses and in meat and meat food products. The ongoing review shall include, as necessary, epidemiologic and other scientific studies to ascertain the efficiency and efficacy of the regulations, processes, procedures, and methods.

''(2) CONSULTATION.—In carrying out paragraphs (1) and (3) of subsection (c), subsection (d), subsection (e)(1), and paragraph (1), the Secretary shall consult with the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, and the heads of such other Federal and State public health agencies as the Secretary considers appropriate.

''SEC. 502. HAZARD CONTROLS.

''(a) REGULATIONS.—

''(1) ISSUANCE.—Not later than 1 year after the date of enactment of this title, the Secretary shall issue regulations that require an official establishment to—

''(A) adopt processing controls that are adequate to protect public health; and

''(B) limit the presence and growth of human pathogens and other potentially harmful substances in carcasses and parts of carcasses and on meat and meat food products derived from animals prepared in the establishment.

''(2) CONTENT.—The regulations shall—

''(A) set standards for sanitation;

''(B) set interim limits for biological, chemical, and physical hazards, as appropriate;

''(C) require processing controls to ensure that relevant regulatory standards are met;

''(D) require recordkeeping to monitor compliance;

''(E) require sampling to ensure that processing controls are effective and that regulatory standards are being met; and

''(F) provide for agency access to records kept by official establishments and submission of copies of the records to the Secretary as the Secretary considers appropriate.

''(3) PUBLIC ACCESS.—Public access to records that relate to the adequacy of measures taken by an official establishment to protect the public health, and to limit the presence and growth of human pathogens and other potentially harmful substances, shall be subject to section 552 of title 5, United States Code.

''(4) PROCESSING CONTROLS.—The Secretary may, as the Secretary considers necessary, require any person with responsibility for, or control over, any animals or meat or meat food products intended for human consumption to adopt processing controls, if the processing controls are needed to ensure the protection of public health.

''(b) ADVISORY BOARD.—

''(1) IN GENERAL.—On the issuance of regulations under subsection (a), the Secretary shall convene an advisory board on meat and poultry safety to—

''(A) recommend improvements to the meat and poultry inspection programs;

''(B) evaluate alternatives to the programs; and

''(C) provide other relevant advice to the Secretary.

''(2) COMPOSITION.—The advisory board shall include representatives of consumers, processors, producers, retail outlets, inspectors, plant workers, public health officials, and victims of foodborne illness.

''(3) DUTIES.—The advisory board shall—

''(A) evaluate—

''(i) the meat and poultry inspection programs; and

''(ii) the significance of the programs in ensuring the proper operation of mandatory processing controls; and

''(B) make recommendations to the Secretary described in paragraph (4).

''(4) REPORT.—The Secretary shall report to Congress on the recommendations of the advisory board for improving the meat and poultry inspection programs, including—

''(A) the timing and criteria for any changes in the programs;

''(B) alternative approaches for addressing safety and quality issues; and

''(C) the minimum time needed to ensure that processing controls effectively reduce foodborne illness prior to any change in the programs.

''(5) PROCEDURE.—The advisory board shall be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

''(c) LABELING.—Notwithstanding any other provision of this Act, if the Secretary discontinues carcass-by-carcass inspection of meat, the 'USDA Inspected and Passed' seal, or a similar seal, shall not be affixed to any carcasses and parts of carcasses and to meat and meat food products derived from the animals prepared in any official establishment.

"SEC. 503. VOLUNTARY GUIDELINES FOR RETAIL ESTABLISHMENTS.

''(a) STANDARDS.—

''(1) IN GENERAL.—In consultation with representatives of States, the Conference for Food Protection, the Association of Food and Drug Officials, and Federal agencies, the Secretary shall establish minimum standards for the handling, processing, and storage of meat and meat food products at retail stores, restaurants, and similar types of retail establishments (collectively referred to in this section as 'retail establishments').

''(2) CONTENT.—The standards shall—

''(A) be designed to ensure that meat and meat food products sold by retail establishments are safe for human consumption;

''(B) be based on the principles of preventive controls; and

''(C) include—

''(i) safe food product processing and handling practices for retail establishments, including time and temperature controls on meat and meat food products sold by the establishments;

''(ii) equipment handling practices, including standards for the cleaning and sanitization of food equipment and utensils;

''(iii) minimum personnel hygiene requirements; and

''(iv) requirements for the use of temperature warning devices on raw meat and meat food products to alert consumers to inadequate temperature controls.

''(b) GUIDELINES.—

''(1) ISSUANCE.—Not later than 18 months after the date of enactment of this title, the Secretary, after notice and opportunity for comment, shall issue guidelines for retail establishments that offer meat and meat food products that include the standards established under subsection (a).

''(2) COMPLIANCE.—Not later than 18 months after the date of enactment of this title, the Secretary shall issue a final regulation defining the circumstances that constitute substantial compliance by retail establishments with the guidelines issued under paragraph (1). The regulation shall provide that there is not substantial compliance if a significant number of retail establishments have failed to comply with the guidelines.

''(3) REPORT.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this title, the Secretary shall issue a report to Congress on actions taken by retail establishments to comply with the guidelines. The report shall include a determination of whether there is substantial compliance with the guidelines.

''(B) SUBSTANTIAL COMPLIANCE.—If the Secretary determines that there is substantial compliance with the guidelines, the Secretary shall issue a report and make a determination in accordance with subparagraph (A) not less than every 2 years.

''(C) NO SUBSTANTIAL COMPLIANCE.—If the Secretary determines that there is not substantial compliance with the guidelines, the Secretary shall (at the time the determination is made) issue proposed regulations requiring that retail establishments comply with the guidelines. The Secretary shall issue final regulations imposing the requirement not later than 180 days after issuance of any proposed regulations. Any final regulations shall become effective 180 days after the date of the issuance of the final regulations.

''(c) ENFORCEMENT.—A State may bring, in the name of the State and within the jurisdiction of the State, a proceeding for the civil enforcement, or to restrain a violation, of final regulations issued pursuant to subsection (b)(3)(C) if the food that is the subject of the proceeding is located in the State.

"SEC. 504. LIVESTOCK TRACEBACK.

''(a) IN GENERAL.—

''(1) IDENTIFICATION.—For the purpose of understanding the nature of foodborne illness and minimizing the risks of foodborne illness from carcasses and parts of carcasses and meat and meat food products distributed in commerce, the Secretary shall, as the Secretary considers necessary, prescribe by regulation that cattle, sheep, swine, and goats, and horses, mules, and other equines presented for slaughter for human food purposes be identified in a manner prescribed by the Secretary to enable the Secretary to trace each animal to any premises at which the animal has been held for such period prior to slaughter as the Secretary considers necessary to carry out this Act.

''(2) PROHIBITION OR RESTRICTION ON ENTRY.—The Secretary may prohibit or restrict entry into any slaughtering establishment inspected under this Act of any cattle, sheep, swine, or goats, or horses, mules, or other equines not identified as prescribed by the Secretary.

''(b) RECORDS.—

''(1) IN GENERAL.—The Secretary may require that a person required to identify livestock pursuant to subsection (a) maintain accurate records, as prescribed by the Secretary, regarding the purchase, sale, and identification of the livestock.

''(2) ACCESS.—A person subject to paragraph (1) shall, at all reasonable times, on notice by a duly authorized representative of the Secretary, afford the representative access to the place of business of the person and an opportunity to examine the records of the person and copy the records.

''(3) DURATION.—Any record required to be maintained under this subsection shall be maintained for such period of time as the Secretary prescribes.

''(c) FALSE INFORMATION.—No person shall falsify or misrepresent to the Secretary or any other person any information concerning the premises at which any cattle, sheep, swine, or goats, or horses, mules, or other equines, or carcasses thereof, were held.

''(d) MAINTENANCE OF RECORDS.—No person shall, without authorization from the Secretary, alter, detach, or destroy any records or other means of identification prescribed by the Secretary for use in determining the premises at which were held any cattle, sheep, swine, or goats, or horses, mules, or other equines, or the carcasses thereof.

''(e) HUMAN PATHOGENS OR OTHER HARMFUL SUBSTANCES.—

''(1) IDENTIFICATION OF SOURCE.—If the Secretary finds any human pathogen or any other potentially harmful substance in any cattle, sheep, swine, or goats, or horses, mules, or other equines at the time they are presented for slaughter or in any carcasses, parts of carcasses, meat, or meat food products prepared in an official establishment and the Secretary finds that there is a reasonable probability that human consumption of any meat or meat food product containing the human pathogen or other potentially harmful substance presents a threat to public health, the Secretary may take such action as the Secretary considers necessary to determine the source of the human pathogen or other potentially harmful substance.

''(2) ACTION.—If the Secretary identifies the source of any human pathogen or other potentially harmful substance referred to in paragraph (1), the Secretary may prohibit or restrict the movement of any animals, carcasses, parts of carcasses, meat, meat food products, or any other article from any source of the human pathogen or other potentially harmful substance until the Secretary determines that the human pathogen or other potentially harmful substance at the source no longer presents a threat to public health.

''(f) PRODUCERS AND HANDLERS.—

''(1) USE OF METHODS.—The Secretary shall use any means of identification and recordkeeping methods utilized by producers or handlers of cattle, sheep, swine, or goats, or horses, mules, or other equines whenever the Secretary determines that the means of identification and recordkeeping methods will enable the Secretary to carry out this section.

''(2) COOPERATION.—The Secretary may cooperate with producers or handlers of cattle, sheep, swine, or goats, or horses, mules, or other equines, in which any human pathogen or other potentially harmful substance described in subsection (e)(1) is found, to develop and carry out methods to limit or eliminate the human pathogen or other potentially harmful substance at the source.

"SEC. 505. NOTIFICATION AND RECALL OF NONCONFORMING ARTICLES.

''(a) NOTIFICATION.—Any person preparing carcasses or parts of carcasses, meat, or meat food products for distribution in commerce who obtains knowledge that provides a reasonable basis for believing that any carcasses or parts of carcasses or any meat or meat food products—

''(1) are unsafe for human consumption, adulterated, or not produced in accordance with section 501(a); or

''(2) are misbranded;

shall immediately notify the Secretary, in such manner and by such means as the Secretary may by regulation prescribe, of the identity and location of the articles.

''(b) RECALL.—

''(1) IN GENERAL.—If the Secretary finds, on notification or otherwise, that any carcasses or parts of carcasses or any meat or meat food products—

''(A) are unsafe for human consumption, adulterated, or not produced in accordance with section 501(a); or

''(B) are misbranded;

the Secretary shall by order require any person engaged in the processing, handling, transportation, storage, importation, distribution, or sale of the articles to immediately cease any distribution of the articles, and to recall the articles from commercial distribution and use, if the Secretary determines that there is a reasonable probability that the product is unsafe for human consumption, adulterated, or misbranded, unless the person is engaged in a voluntary recall of the articles that the Secretary considers adequate.

''(2) ORDER.—The order shall—

''(A) include a timetable during which the recall shall occur;

''(B) require periodic reports by the person to the Secretary describing the progress of the recall; and

''(C) require notice to consumers to whom the articles were, or may have been, distributed as to how the consumers should treat the article.

''(c) INFORMAL HEARING.—

''(1) IN GENERAL.—The order shall provide any person subject to the order with an opportunity for an informal hearing, to be held not later than 5 days after the date of issuance of the order, on the actions required by the order.

''(2) VACATION OF ORDER.—If, after providing an opportunity for the hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

''(d) JUDICIAL RECALL.—A district court of the United States may order any person engaged in the processing, handling, transportation, storage, importation, distribution, or sale of any carcass, part of a carcass, meat, or meat food product to recall the carcass, part of a carcass, meat, or meat food product if the court finds that there is a reasonable probability that the carcass, part of a carcass, meat, or meat food product is unsafe for human consumption, adulterated, or misbranded.

''SEC. 506. REFUSAL OR WITHDRAWAL OF INSPECTION.

''(a) IN GENERAL.—The Secretary may, for such period or indefinitely as the Secretary considers necessary to carry out this Act, refuse to provide, or withdraw, inspections under title I with respect to any official establishment if the Secretary determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, the service that the applicant or recipient, or any person connected with the applicant or recipient, has repeatedly failed to comply with this Act.

''(b) INSPECTIONS PENDING REVIEW.—The Secretary may direct that, pending opportunity for an expedited hearing in the case of any refusal or withdrawal of inspections and the final determination and order under subsection (a) and any judicial review of the determination and order, inspections shall be denied or suspended if the Secretary considers the action necessary in the public interest in order to protect the health or welfare of consumers or to ensure the safe and effective performance of official duties under this Act.

''(c) JUDICIAL REVIEW.—

''(1) IN GENERAL.—The determination and order of the Secretary with respect to refusal or withdrawal of inspections under this section shall be final and conclusive unless the applicant for, or recipient of, inspections files an application for judicial review not later than 30 days after the effective date of the order.

''(2) INSPECTIONS PENDING REVIEW.—Inspections shall be refused or withdrawn as of the effective date of the order pending any judicial review of the order unless the Secretary or the Court of Appeals directs otherwise.

''(3) VENUE; RECORD.—Judicial review of the order shall be—

''(A) in the United States Court of Appeals for the circuit in which the applicant for, or the recipient of, inspections has the principal place of business of the applicant or recipient or in the United States Court of Appeals for the District of Columbia Circuit; and

''(B) based on the record on which the determination and order are based.

''(4) PROCESS.—Section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194), shall be applicable to appeals taken under this section.

''(d) ADDITIONAL AUTHORITY.—This section shall be in addition to, and not derogate from, any provision of this Act for refusal, withdrawal, or suspension of inspections under title I.

''SEC. 507. CIVIL PENALTIES.

''(a) IN GENERAL.—

''(1) ASSESSMENT.—A person who violates this title, a regulation issued under this title, or an order issued under subsection (b) or (d) of section 505 may be assessed a civil penalty by the Secretary of not more than $100,000 for each day of violation.

''(2) SEPARATE VIOLATION.—Each offense described in paragraph (1) shall be considered to be a separate violation.

''(3) NOTICE AND OPPORTUNITY FOR HEARING.—No penalty may be assessed against a person under this section unless the person is given notice and an opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

''(4) AMOUNT.—The amount of the civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, the degree of culpability, and any history of prior offenses. The amount may be reviewed only as provided in subsection (b).

''(b) REVIEW.—

''(1) IN GENERAL.—A person against whom a violation is found and a civil penalty assessed by order of the Secretary under subsection (a) may obtain review of the order in the United States Court of Appeals for the circuit in which the party resides or has a place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in the court not later than 30 days after the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary.

''(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the violation was found and the penalty assessed.

''(3) FINDINGS.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence on the record as a whole.

''(c) CIVIL ACTION TO RECOVER ASSESSMENT.—

''(1) IN GENERAL.—If a person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate Court of Appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute a civil action to recover the amount assessed in any appropriate district court of the United States.

''(2) SCOPE OF REVIEW.—In a recovery action under paragraph (1), the validity and appropriateness of the order of the Secretary imposing the civil penalty shall not be subject to review.

''(d) DISPOSITION OF AMOUNTS.—All amounts collected under this section shall be paid into the Treasury of the United States.

''(e) EQUITABLE RELIEF.—

''(1) RELATIONSHIP TO OTHER ACTIONS.—Nothing in this Act requires the Secretary to report for criminal prosecution, or for the institution of an injunction or other proceeding, a violation of this Act, if the Secretary believes that the public interest will be adequately served by assessment of civil penalties.

''(2) MODIFICATION OF PENALTY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this section.

''SEC. 508. WHISTLEBLOWER PROTECTION.

''(a) IN GENERAL.—No person subject to this Act may harass, prosecute, hold liable, or discriminate against any employee or other person because the person—

''(1) is assisting or demonstrating an intent to assist in achieving compliance with any Federal or State law (including a rule or regulation);

''(2) is refusing to violate or assist in the violation of any Federal or State law (including a rule or regulation); or

''(3) has commenced, caused to be commenced, or is about to commence a proceeding, has testified or is about to testify at a proceeding, or has assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the functions or responsibilities of any agency, office, or unit of the Department of Agriculture.

''(b) PROCEDURES AND PENALTIES.—The procedures and penalties applicable to prohibited acts under subsection (a) shall be governed by the applicable provisions of section 31105 of title 49, United States Code.

''(c) BURDENS OF PROOF.—The legal burdens of proof with respect to prohibited acts under subsection (a) shall be governed by the applicable provisions of sections 1214 and 1221 of title 5, United States Code.''.

TITLE II—POULTRY INSPECTION

SEC. 201. REFERENCES TO THE POULTRY PRODUCTS INSPECTION ACT.

Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), except to the extent otherwise specifically provided.

SEC. 202. DEFINITIONS.

(a) ADULTERATED.—Section 4(g)(1) (21 U.S.C. 453(g)(1)) is amended to read as follows:

''(1) if it bears or contains a poisonous or deleterious substance that may render it injurious to health, except that, in the case of a substance that is not an added substance, the article shall be considered adulterated under this subsection if there is a reasonable probability that the quantity of the substance in the article will cause adverse health consequences;''.

(b) ADDED SUBSTANCE.—Section 4 is amended by adding at the end the following:

''(cc) The term 'added substance'—

''(1) means a substance that is not an inherent constituent of a food and whose intended use results, or may reasonably be expected to result, directly or indirectly, in the substance becoming a component of, or otherwise affecting the characteristics of, the food; and

''(2) includes—

''(A) a substance that is intentionally added to any food; or

''(B) a substance that is the result of microbial, viral, environmental, agricultural, industrial, or other contamination.''.

SEC. 203. FEDERAL AND STATE COOPERATION.

The first sentence of section 5(c)(1) (21 U.S.C. 454(c)(1)) is amended—

(1) by inserting after ''the Wholesome Poultry Products Act,'' the following: ''or by 30 days prior to the expiration of the 2-year period beginning on the date of enactment of the Family Food Protection Act of 1995,''; and

(2) by striking ''sections 1–4, 6–10, and 12–22 of this Act'' and inserting ''sections 1 through 4, 6 through 10, 12 through 22, and 30 through 37''.

SEC. 204. EXEMPTIONS.

Section 15(a)(1) (21 U.S.C. 464(a)(1)) is amended by inserting before the semicolon at the end the following: '', except that regulations issued under section 32 shall apply to

a retail store or other type of retail establishment''.

SEC. 205. REDUCING ADULTERATION OF POULTRY AND POULTRY PRODUCTS.

The Act (21 U.S.C. 451 et seq.) is amended by adding at the end the following:

''SEC. 30. REDUCING ADULTERATION OF POULTRY AND POULTRY PRODUCTS.

''(a) IN GENERAL.—On the basis of the best available scientific and technological data, the Secretary shall issue regulations to—

''(1) limit the presence of human pathogens and other potentially harmful substances in poultry at the time the poultry are presented for slaughter;

''(2) ensure that appropriate measures are taken to control and reduce the presence and growth of human pathogens and other potentially harmful substances on poultry or poultry products prepared in any official establishment;

''(3) ensure that all ready-to-eat poultry or poultry products prepared in any official establishment preparing the poultry or poultry products for distribution in commerce are processed in such a manner as to destroy any human pathogens and other potentially harmful substances that are likely to cause foodborne illness; and

''(4) ensure that poultry and poultry products, other than the poultry and products referred to in paragraph (3), prepared at any official establishment preparing the poultry or poultry products for distribution in commerce are labeled with instructions for handling and preparation for consumption that, when adhered to, will destroy any human pathogens or other potentially harmful substances that are likely to cause foodborne illness.

''(b) NONCOMPLIANCE.—

''(1) IN GENERAL.—Except as provided in paragraph (2), poultry or a poultry product prepared at any official establishment preparing the poultry or poultry product for distribution in commerce, that is found not to be in compliance with the regulations issued under paragraph (2), (3), or (4) of subsection (a) shall be—

''(A) considered adulterated and determined to be condemned; and

''(B) if no appeal is made to the determination of condemnation, destroyed for human food purposes under the supervision of an inspector.

''(2) REPROCESSING OR LABELING.—Poultry or a poultry product that is not in compliance with paragraph (2), (3), or (4) of subsection (a), but that may by reprocessing or labeling, or both, be made not adulterated, need not be condemned and destroyed if after reprocessing or labeling, or both, as applicable and as determined by the Secretary, under the supervision of an inspector, the poultry or poultry product is subsequently inspected and found to be not adulterated.

''(3) APPEALS.—

''(A) ACTION PENDING APPEAL.—If an appeal is made to a determination of condemnation, the poultry or poultry product shall be appropriately marked, segregated, and held by the official establishment pending completion of an appeal inspection.

''(B) CONDEMNATION SUSTAINED.—If the determination of condemnation is sustained, the poultry or poultry product if not reprocessed or labeled, or both, under paragraph (2) so as to be made not adulterated, shall be destroyed for human food purposes under the supervision of a duly authorized representative of the Secretary.

''(c) HUMAN PATHOGENS AND OTHER HARMFUL SUBSTANCES.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations that—

''(1) require poultry and poultry products in an official establishment to be tested, in such manner and with such frequency as the Secretary considers necessary, to identify human pathogens, or markers for the pathogens, and other potentially harmful substances in the poultry and poultry products;

''(2) require that the results of any test conducted in accordance with paragraph (1) be reported to the Secretary, in such manner and with such frequency as the Secretary considers necessary;

''(3)(A) establish interim limits for human pathogens and other potentially harmful substances that, when found on poultry or poultry products, may present a threat to public health; and

''(B) in carrying out subparagraph (A)—

''(i) establish interim limits that are below the industry mean as determined by the Secretary for the pathogen or other potentially harmful substance established through national baseline studies; and

''(ii) reestablish the interim limits every two years after the initial interim limits until the regulatory limits referred to in subsection (d)(2), tolerances, or other standards are established under this Act or other applicable law; and

''(4) prohibit or restrict the sale, transportation, offer for sale or transportation, or receipt for transportation of any poultry or poultry products that—

''(A) are capable of use as human food; and

''(B) exceed the regulatory limits, interim limits, tolerances, or other standards established under this Act or other applicable law for human pathogens or other potentially harmful substances.

''(d) RESEARCH AND REGULATORY LIMITS.—

''(1) RESEARCH ON FOOD SAFETY.—The Secretary, acting through the Under Secretary of Agriculture for Food Safety, shall conduct or support appropriate research on food safety, including—

''(A) developing and reevaluating appropriate limits for human pathogens or other potentially harmful substances that when found on poultry and poultry products prepared in official establishments may present a threat to public health;

''(B) developing efficient, rapid, and sensitive methods for determining and detecting the presence of microbial contamination, chemical residues, and animal diseases that have an adverse impact on human health;

''(C) conducting baseline studies on the prevalence of human pathogens or other potentially harmful substances in processing facilities; and

''(D) conducting risk assessments to determine the human pathogens and other potentially harmful substances that pose the greatest risk to human health.

''(2) REGULATORY LIMITS FOR HUMAN PATHOGENS AND OTHER HARMFUL SUBSTANCES.—

''(A) IN GENERAL.—Not later than 2 years after the date of enactment of this section, the Secretary of Health and Human Services shall establish regulatory limits, to the maximum extent scientifically supportable, for human pathogens and other potentially harmful substances, including heavy metals, that, when found as a component of poultry or poultry products prepared in official establishments, may present a threat to public health.

''(B) RISK TO HUMAN HEALTH.—In establishing the regulatory limits, the Secretary of Health and Human Services shall consider the risk to human health, including the risk to children, the elderly, individuals whose immune systems are compromised, and other population subgroups, posed by consumption of the poultry or poultry products containing the human pathogen or other potentially harmful substance.

''(C) FUNDING.—The Secretary of Agriculture shall annually transfer to the Secretary of Health and Human Services an amount, to be determined by the Secretaries, to defray the cost of establishing the regulatory limits.

''(e) SURVEILLANCE AND SAMPLING SYSTEMS.—

''(1) SURVEILLANCE SYSTEM.—In conjunction with the Director of the Centers for Disease Control and Prevention and the Commissioner of Food and Drugs, the Secretary shall develop and administer an active surveillance system for foodborne illness, that is based on a representative sample of the population of the United States, to assess more accurately the frequency and sources of human disease in the United States associated with the consumption of poultry and poultry products.

''(2) SAMPLING SYSTEM.—

''(A) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Secretary shall establish a sampling system, using data collected under subsection (c)(2) and other sources, to analyze the nature, frequency of occurrence, and quantities of human pathogens and other potentially harmful substances in poultry and poultry products.

''(B) INFORMATION.—The sampling system shall provide—

''(i) statistically valid monitoring, including market basket studies, on the nature, frequency of occurrence, and quantity of human pathogens and other potentially harmful substances in poultry and poultry products available to consumers; and

''(ii) such other information as the Secretary determines may be useful in assessing the occurrence of human pathogens and other potentially harmful substances in poultry and poultry products.

''(C) NONCOMPLIANCE.—If a sample is found to exceed regulatory limits, interim limits, tolerances, or standards established under this Act or other applicable law, the Secretary shall take action to prevent violative products from entering commerce or to remove the violative products from the market.

''(f) REVIEW AND CONSULTATION.—

''(1) REVIEW.—The Secretary shall review, at least every 2 years, all regulations, processes, procedures, and methods designed to limit and control human pathogens and other potentially harmful substances present on or in poultry and poultry products. The ongoing review shall include, as necessary, epidemiologic and other scientific studies to ascertain the efficiency and efficacy of the regulations, processes, procedures, and methods.

''(2) CONSULTATION.—In carrying out paragraphs (1) and (3) of subsection (c), subsection (d), subsection (e)(1), and paragraph (1), the Secretary shall consult with the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, and the heads of such other Federal and State public health agencies as the Secretary considers appropriate.

''SEC. 31. HAZARD CONTROLS.

''(a) REGULATIONS.—

''(1) ISSUANCE.—Not later than 1 year after the date of enactment of this section, the Secretary shall issue regulations that require an official establishment to—

''(A) adopt processing controls that are adequate to protect public health; and

''(B) limit the presence and growth of human pathogens and other potentially harmful substances in poultry and poultry products prepared in the establishment.

''(2) CONTENT.—The regulations shall—

''(A) set standards for sanitation;

''(B) set interim limits for biological, chemical, and physical hazards, as appropriate;

''(C) require processing controls to ensure that relevant regulatory standards are met;

''(D) require recordkeeping to monitor compliance;

''(E) require sampling to ensure that processing controls are effective and that regulatory standards are being met; and

''(F) provide for agency access to records kept by official establishments and submission of copies of the records to the Secretary as the Secretary considers appropriate.

''(3) PUBLIC ACCESS.—Public access to records that relate to the adequacy of measures taken by an official establishment to protect the public health, and to limit the presence and growth of human pathogens and other potentially harmful substances, shall be subject to section 552 of title 5, United States Code.

''(4) PROCESSING CONTROLS.—The Secretary may, as the Secretary considers necessary, require any person with responsibility for, or control over, any poultry or poultry products intended for human consumption to adopt processing controls, if the processing controls are needed to ensure the protection of public health.

''(b) ADVISORY BOARD.—On the issuance of regulations under subsection (a), the Secretary shall convene an advisory board on meat and poultry safety in accordance with section 502(b) of the Federal Meat Inspection Act.

''(c) LABELING.—Notwithstanding any other provision of this Act, if the Secretary discontinues carcass-by-carcass inspection of poultry, the 'USDA Inspected for Wholesomeness' seal, or a similar seal, shall not be affixed to any poultry and poultry products derived from the poultry prepared in any official establishment.

''SEC. 32. VOLUNTARY GUIDELINES FOR RETAIL ESTABLISHMENTS.

''(a) STANDARDS.—

''(1) IN GENERAL.—In consultation with representatives of States, the Conference for Food Protection, the Association of Food and Drug Officials, and Federal agencies, the Secretary shall establish minimum standards for the handling, processing, and storage of poultry and poultry products at retail stores, restaurants, and similar types of retail establishments (collectively referred to in this section as 'retail establishments').

''(2) CONTENT.—The standards shall—

''(A) be designed to ensure that poultry and poultry products sold by the retail establishments are safe for human consumption;

''(B) be based on the principles of preventive controls; and

''(C) include—

''(i) safe food product processing and handling practices for retail establishments, including time and temperature controls on poultry and poultry products sold by the establishments;

''(ii) equipment handling practices, including standards for the cleaning and sanitization of food equipment and utensils;

''(iii) minimum personnel hygiene requirements; and

''(iv) requirements for the use of temperature warning devices on raw poultry or poultry products to alert consumers to inadequate temperature controls.

''(b) GUIDELINES.—

''(1) ISSUANCE.—Not later than 18 months after the date of enactment of this section, the Secretary, after notice and opportunity for comment, shall issue guidelines for retail establishments that offer poultry and poultry products that include the standards established under subsection (a).

''(2) COMPLIANCE.—Not later than 18 months after the date of enactment of this section, the Secretary shall issue a final regulation defining the circumstances that constitute substantial compliance by retail establishments with the guidelines issued under paragraph (1). The regulation shall provide that there is not substantial compliance if a significant number of retail establishments have failed to comply with the guidelines.

''(3) REPORT.—

''(A) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary shall issue a report to Congress on actions taken by retail establishments to comply with the guidelines. The report shall include a determination of whether there is substantial compliance with the guidelines.

''(B) SUBSTANTIAL COMPLIANCE.—If the Secretary determines that there is substantial compliance with the guidelines, the Secretary shall issue a report and make a determination in accordance with subparagraph (A) not less than every 2 years.

''(C) NO SUBSTANTIAL COMPLIANCE.—If the Secretary determines that there is not substantial compliance with the guidelines, the Secretary shall (at the time the determination is made) issue proposed regulations requiring that retail establishments comply with the guidelines. The Secretary shall issue final regulations imposing the requirement not later than 180 days after issuance of any proposed regulations. Any final regulations shall become effective 180 days after the date of the issuance of the final regulations.

''(c) ENFORCEMENT.—A State may bring, in the name of the State and within the jurisdiction of the State, a proceeding for the civil enforcement, or to restrain a violation, of final regulations issued pursuant to subsection (b)(3)(C) if the food that is the subject of the proceeding is located in the State.

''SEC. 33. LIVESTOCK TRACEBACK.

''(a) IN GENERAL.—

''(1) IDENTIFICATION.—For the purpose of understanding the nature of foodborne illness and minimizing the risks of foodborne illness from poultry and poultry products distributed in commerce, the Secretary shall, as the Secretary considers necessary, prescribe by regulation that poultry presented for slaughter for human food purposes be identified in a manner prescribed by the Secretary to enable the Secretary to trace each poultry to any premises at which the poultry has been held for such period prior to slaughter as the Secretary considers necessary to carry out this Act.

''(2) PROHIBITION OR RESTRICTION ON ENTRY.—The Secretary may prohibit or restrict entry into any slaughtering establishment inspected under this Act of any poultry not identified as prescribed by the Secretary.

''(b) RECORDS.—

''(1) IN GENERAL.—The Secretary may require that a person required to identify poultry pursuant to subsection (a) maintain accurate records, as prescribed by the Secretary, regarding the purchase, sale, and identification of the poultry.

''(2) ACCESS.—A person subject to paragraph (1) shall, at all reasonable times, on notice by a duly authorized representative of the Secretary, afford the representative access to the place of business of the person and an opportunity to examine the records of the person and copy the records.

''(3) DURATION.—Any record required to be maintained under this subsection shall be maintained for such period of time as the Secretary prescribes.

''(c) FALSE INFORMATION.—No person shall falsify or misrepresent to the Secretary or any other person any information concerning the premises at which any poultry were held.

''(d) MAINTENANCE OF RECORDS.—No person shall, without authorization from the Secretary, alter, detach, or destroy any records or other means of identification prescribed by the Secretary for use in determining the premises at which were held any poultry.

''(e) HUMAN PATHOGENS OR OTHER HARMFUL SUBSTANCES.—

''(1) IDENTIFICATION OF SOURCE.—If the Secretary finds any human pathogen or any other potentially harmful substance in any poultry at the time the poultry is presented for slaughter or in any poultry or poultry products prepared in an official establishment and the Secretary finds that there is a reasonable probability that human consumption of any poultry or poultry product containing the human pathogen or other potentially harmful substance presents a threat to public health, the Secretary may take such action as the Secretary considers necessary to determine the source of the human pathogen or other potentially harmful substance.

''(2) ACTION.—If the Secretary identifies the source of any human pathogen or other potentially harmful substance referred to in paragraph (1), the Secretary may prohibit or restrict the movement of any poultry or poultry products, or any other article from any source of the human pathogen or other potentially harmful substance until the Secretary determines that the human pathogen or other potentially harmful substance at the source no longer presents a threat to public health.

''(f) PRODUCERS AND HANDLERS.—

''(1) USE OF METHODS.—The Secretary shall use any means of identification and recordkeeping methods utilized by producers or handlers of poultry whenever the Secretary determines that the means of identification and recordkeeping methods will enable the Secretary to carry out this section.

''(2) COOPERATION.—The Secretary may cooperate with producers or handlers of poultry in which any human pathogen or other potentially harmful substance described in subsection (e)(1) is found, to develop and carry out methods to limit or eliminate the human pathogen or other potentially harmful substance at the source.

''SEC. 34. NOTIFICATION AND RECALL OF NONCONFORMING ARTICLES.

''(a) NOTIFICATION.—Any person preparing poultry or poultry products for distribution in commerce who obtains knowledge that provides a reasonable basis for believing that any poultry or poultry products—

''(1) are unsafe for human consumption, adulterated, or not produced in accordance with section 30(a); or

''(2) are misbranded;

shall immediately notify the Secretary, in such manner and by such means as the Secretary may by regulation prescribe, of the identity and location of the articles.

''(b) RECALL.—

''(1) IN GENERAL.—If the Secretary finds, on notification or otherwise, that any poultry or poultry products—

''(A) are unsafe for human consumption, adulterated, or not produced in accordance with section 30(a); or

''(B) are misbranded;

the Secretary shall by order require any person engaged in the processing, handling, transportation, storage, importation, distribution, or sale of poultry or poultry products to immediately cease any distribution of the poultry or poultry products, and to recall the poultry or poultry products from commercial distribution and use, if the Secretary determines that there is a reasonable probability that the product is unsafe for human consumption, adulterated, or misbranded, unless the person is engaged in a voluntary recall of the poultry or poultry products that the Secretary considers adequate.

''(2) ORDER.—The order shall—

''(A) include a timetable during which the recall shall occur;

''(B) require periodic reports by the person to the Secretary describing the progress of the recall; and

''(C) require notice to consumers to whom the articles were, or may have been, distributed as to how the consumers should treat the article.

''(c) INFORMAL HEARING.—

''(1) IN GENERAL.—The order shall provide any person subject to the order with an opportunity for an informal hearing, to be held not later than 5 days after the date of issuance of the order, on the actions required by the order.

''(2) VACATION OF ORDER.—If, after providing an opportunity for the hearing, the Secretary determines that inadequate grounds exist to support the actions required by the order, the Secretary shall vacate the order.

''(d) JUDICIAL RECALL.—A district court of the United States may order any person engaged in the processing, handling, transportation, storage, importation, distribution, or sale of poultry or a poultry product to recall the poultry or product if the court finds that there is a reasonable probability that the poultry or poultry product is unsafe for human consumption, adulterated, or misbranded.

''SEC. 35. REFUSAL OR WITHDRAWAL OF INSPECTION.

''(a) IN GENERAL.—The Secretary may, for such period or indefinitely as the Secretary considers necessary to carry out this Act, refuse to provide, or withdraw, inspections under this Act with respect to any official establishment if the Secretary determines, after opportunity for a hearing is accorded to the applicant for, or recipient of, the service that the applicant or recipient, or any person connected with the applicant or recipient, has repeatedly failed to comply with this Act.

''(b) INSPECTIONS PENDING REVIEW.—The Secretary may direct that, pending opportunity for an expedited hearing in the case of any refusal or withdrawal of inspections and the final determination and order under subsection (a) and any judicial review of the determination and order, inspections shall be denied or suspended if the Secretary considers the action necessary in the public interest in order to protect the health or welfare of consumers or to ensure the safe and effective performance of official duties under this Act.

''(c) JUDICIAL REVIEW.—

''(1) IN GENERAL.—The determination and order of the Secretary with respect to refusal or withdrawal of inspections under this section shall be final and conclusive unless the applicant for, or recipient of, inspections files an application for judicial review not later than 30 days after the effective date of the order.

''(2) INSPECTIONS PENDING REVIEW.—Inspections shall be refused or withdrawn as of the effective date of the order pending any judicial review of the order unless the Secretary or the Court of Appeals directs otherwise.

''(3) VENUE; RECORD.—Judicial review of the order shall be—

''(A) in the United States Court of Appeals for the circuit in which the applicant for, or the recipient of, inspections has the principal place of business of the applicant or recipient or in the United States Court of Appeals for the District of Columbia Circuit; and

''(B) based on the record on which the determination and order are based.

''(4) PROCESS.—Section 204 of the Packers and Stockyards Act, 1921 (7 U.S.C. 194), shall be applicable to appeals taken under this section.

''(d) ADDITIONAL AUTHORITY.—This section shall be in addition to, and not derogate from, any provision of this Act for refusal, withdrawal, or suspension of inspections under this Act.

''SEC. 36. CIVIL PENALTIES.

''(a) IN GENERAL.—

''(1) ASSESSMENT.—A person who violates any of sections 30 through 37, a regulation issued under any of the sections, or an order issued under subsection (b) or (d) of section 34 may be assessed a civil penalty by the Secretary of not more than $100,000 for each day of violation.

''(2) SEPARATE VIOLATION.—Each offense described in paragraph (1) shall considered to be a separate violation.

''(3) NOTICE AND OPPORTUNITY FOR HEARING.—No penalty may be assessed against a person under this section unless the person is given notice and an opportunity for a hearing on the record before the Secretary in accordance with sections 554 and 556 of title 5, United States Code.

''(4) AMOUNT.—The amount of the civil penalty shall be assessed by the Secretary by written order, taking into account the gravity of the violation, the degree of culpability, and any history of prior offenses. The amount may be reviewed only as provided in subsection (b).

''(b) REVIEW.—

''(1) IN GENERAL.—A person against whom a violation is found and a civil penalty assessed by order of the Secretary under subsection (a) may obtain review of the order in the United States Court of Appeals for the circuit in which the party resides or has a place of business or in the United States Court of Appeals for the District of Columbia Circuit by filing a notice of appeal in the court not later than 30 days after the date of the order and by simultaneously sending a copy of the notice by certified mail to the Secretary.

''(2) RECORD.—The Secretary shall promptly file in the court a certified copy of the record on which the violation was found and the penalty assessed.

''(3) FINDINGS.—The findings of the Secretary shall be set aside only if found to be unsupported by substantial evidence on the record as a whole.

''(c) CIVIL ACTION TO RECOVER ASSESSMENT.—

''(1) IN GENERAL.—If a person fails to pay an assessment of a civil penalty after the penalty has become a final and unappealable order, or after the appropriate Court of Appeals has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall institute a civil action to recover the amount assessed in any appropriate district court of the United States.

''(2) SCOPE OF REVIEW.—In a recovery action under paragraph (1), the validity and appropriateness of the order of the Secretary imposing the civil penalty shall not be subject to review.

''(d) DISPOSITION OF AMOUNTS.—All amounts collected under this section shall be paid into the Treasury of the United States.

''(e) EQUITABLE RELIEF.—

''(1) RELATIONSHIP TO OTHER ACTIONS.—Nothing in this Act requires the Secretary to report for criminal prosecution, or for the institution of a injunction or other proceeding, a violation of this Act, if the Secretary believes that the public interest will be adequately served by assessment of civil penalties.

''(2) MODIFICATION OF PENALTY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty assessed under this section.

''SEC. 37. WHISTLEBLOWER PROTECTION.

''(a) IN GENERAL.—No person subject to this Act may harass, prosecute, hold liable, or discriminate against any employee or other person because the person—

''(1) is assisting or demonstrating an intent to assist in achieving compliance with any Federal or State law (including a rule or regulation);

''(2) is refusing to violate or assist in the violation of any Federal or State law (including a rule or regulation); or

''(3) has commenced, caused to be commenced, or is about to commence a proceeding, has testified or is about to testify at a proceeding, or has assisted or participated or is about to assist or participate in any manner in such a proceeding or in any other action to carry out the functions or responsibilities of any agency, office, or unit of the Department of Agriculture.

''(b) PROCEDURES AND PENALTIES.—The procedures and penalties applicable to prohibited acts under subsection (a) shall be governed by the applicable provisions of section 31105 of title 49, United States Code.

''(c) BURDENS OF PROOF.—The legal burdens of proof with respect to prohibited acts under subsection (a) shall be governed by the applicable provisions of sections 1214 and 1221 of title 5, United States Code.''.

SUMMARY OF THE FAMILY FOOD PROTECTION ACT

The laws governing meat and poultry safety, first developed in the early 1900's, need to be brought up-to-date to assure that new systems to reduce foodborne illness from meat and poultry are as effective as possible. Current programs for inspecting meat and poultry must be supplemented with more modern methods that control and test for the substances that cause foodborne illness and death.

Harmfull bacteria on meat and poultry products are responsible for at least five million illnesses and 4000 deaths each year. Yet, under the current law, the government can't stop contaminated meat from reaching consumer's tables. The Family Food Protection Act will require the United States Department of Agriculture [USDA] to use scientific standards and testing to prevent contaminated food from reaching consumers and gives the agency modern enforcement tools like recall and traceback to get contaminated food off the market and to trade it to its source.

The Family Food Protection Act adds a new Title V to the Federal Meat Inspection Act and new sections 30 through 37 to the Poultry Products Inspection Act. These sections are parallel between the two Acts. Unless otherwise noted, ''the Secretary'' refers to the Secretary of Agriculture.

REDUCING ADULTERATION OF MEAT AND POULTRY PRODUCTS

Under this section, the Secretary would be required to control and reduce the presence and growth of human pathogens and other harmful substances in meat and poultry products. Modern microbial testing for such contaminants would be required within two years of enactment of the Act. Results of the tests would be reported to the USDA.

Interim limits would be established by the Secretary for human pathogens and other harmful substances until regulatory limits, tolerances or other standards are set by the Secretary of Health and Human Services. The Secretary would conduct or support appropriate research. Meat or poultry that exceeds the limits would be prohibited from sale or transportation. Regulatory limits set by the Secretary of Health and Human Services would protect all consumers including

children, the elderly and the immune compromised.

The Secretary, in conjunction with the Centers of Disease Control and Prevention and the Food and Drug Administration, would administer an active surveillance system for foodborne illnesses and a sampling system to analyze the nature and frequency of human pathogens and other harmful substances in meat and poultry products. The Secretary shall review all regulations every two years and consult with relevant federal and state public health agencies as appropriate.

HAZARD CONTROLS

The Secretary shall require slaughter and processing plants to adopt processing controls adequate to protect public health and to limit the presence and growth of human pathogens and other harmful substances in meat and poultry. The regulations will include standards for sanitation; interim limits for biological, chemical and physical hazards; process controls to assure the limits are met; record keeping requirements; sampling requirements; and agency access to records. Public access to records is assured through the Freedom of Information Act. The Secretary may require other processing controls as deemed necessary to assure the protection of public health.

Once processing controls are required, an advisory board shall be appointed, consisting of consumer and victim representatives, processors, producers, retail outlets, inspectors, plant workers, and public health officials, to recommend other changes to the existing inspection programs, including improvements in and alternatives to the current programs.

The Secretary is directed to discontinue use of the existing inspection seals if, at any time, the Secretary discontinues the carcass-by-carcass inspection of meat. The seal for meat and meat food products says ''Inspected and passed.'' The seal for poultry and poultry products says ''Inspected for wholesomeness by U.S. Department of Agriculture.''

VOLUNTARY GUIDELINES FOR RETAIL ESTABLISHMENTS

The Secretary is directed to develop minimum standards for the handling, processing and storage of meat and poultry products by retail stores, restaurants, and similar establishments to assure that food sold by such establishments is safe for human consumption. Following notice and comment, guidelines are established within 18 months after enactment of the Act. So long as there is substantial compliance by retailers, the guidelines remain voluntary. If substantial compliance is not achieved, the guidelines may become regulations. States may bring actions against retailers to restrain violation of any final regulations under the Act.

LIVESTOCK TRACEBACK

Traceback of animal and animal carcasses is allowed for the purpose of understanding the nature of foodborne illness and minimizing the risks of such illness. The Secretary shall prescribe methods that permit animal identification sufficient to accomplish traceback to the farm or other places where livestock or poultry are held.

If animals are presented for slaughter that contain human pathogens or other harmful substances sufficient to pose a threat to health, the Secretary may take action to determine the source of the human pathogen or other harmful substance. The Secretary may prohibit or restrict the movement of animals, carcasses, meat or meat food products containing the human pathogen or other harmful substance.

NOTIFICATION AND RECALL OF NONCONFORMING ARTICLES

Under this section, any person, firm or corporation preparing meat or poultry products for distribution with a reasonable basis for believing that the products are unsafe for human consumption, adulterated or misbranded shall immediately notify the Secretary of the identity and location of such products.

If the Secretary finds the products are unsafe for human consumption, adulterated or misbranded, the Secretary shall order the recall of such products and all further distribution shall be halted, unless the products are subject to a voluntary recall that the Secretary deems adequate. The person, firm or corporation subject to the order has the opportunity for a hearing within 5 days after the date of the order.

Any district court may order any person, firm or corporation to recall any meat or poultry product if the court finds that there is a reasonable probability that the product is unsafe for human consumption, adulterated or misbranded.

REFUSAL OR WITHDRAWAL OF INSPECTION

The Secretary may refuse to provide or withdraw inspection services if the Secretary determines, after providing the opportunity for a hearing, that the recipient of the service has repeatedly failed to comply with the requirements of the Federal Meat Inspection Act, the Poultry Products Inspection Act or corresponding regulations.

Inspection can be withdrawn prior to a hearing if such action is necessary in order to protect the health and welfare of consumers or to assure the safe and effective performance of official duties.

Judical review of these orders shall be in the United States Court of Appeals.

CIVIL PENALTIES

Civil penalties may be assessed against persons, firms or corporations that violate provisions of the Federal Meat Inspection Act, the Poultry Products Inspection Act or relevant orders. Civil penalties are limited to $100,000 per day of violation. The amount of the penalty shall be assessed by written order following consideration of the gravity of the violation, degree of culpability, and the history of prior offenses.

Judicial review of these orders shall be in the United States Court of Appeals. Penalties collected under this section shall be paid into the United States Treasury.

CORPORATE WHISTLEBLOWER PROTECTION

Employees are protected against harassment, discrimination, prosecution and liability by employers because the employee is assisting in achieving compliance with federal or state laws, rules or regulations; refusing to violate federal or state laws, rules or regulations; or otherwise attempting to carry out the functions of or responsibilities of the USDA. This section is governed by the Surface Transportation Act and the Whistleblower Protection Act.

By Mr. HEFLIN (for himself and Mr. SHELBY):

S. 516. A bill to transfer responsibility for the aquaculture research program under Public Law 85–342 from the Secretary of the Interior to the Secretary of Agriculture, and for other purposes; to the Committee on Environment and Public Works.

NATIONAL AQUACULTURE RESEARCH CENTER ACT

Mr. HEFLIN. Mr. President, I am pleased to introduce the National Aquaculture Research Center Act of 1995.

The first major provision within my legislation transfers responsibility for the aquaculture research program from the Secretary of the Interior to the Secretary of Agriculture. This transfer simply recognizes the reality that the vast majority of aquaculture research and funding comes through the U.S. Department of Agriculture. This is a long-overdue streamlining measure that will greatly improve the overall efficiency and timeliness of aquaculture research.

The second provision stipulates that the Southeastern Fish Culture Laboratory in Marion, AL be named and designated as the ''Claude Harris National Aquaculture Research Center.'' Many of my colleagues remember former Congressman Claude Harris, who passed away last fall after a battle with lung cancer. He spent 6 years in the House of Representatives from the Seventh District of Alabama, and was an outstanding Member of Congress. At the time of his death, he was serving as the U.S. attorney for the northern district of Alabama. He was honest and amiable and never took his political accomplishments for granted.

During his time in Congress, Claude Harris was a strong supporter of aquaculture research, and was instrumental in promoting it through his hard work on the House Energy and Commerce Committee. The fish culture laboratory in Marion is located in Claude's former district.

This designation will serve as a proper and fitting tribute to the memory of Congressman Claude Harris, whose drive, determination, and energy did so much to advance the important science of aquaculture in this country.

ADDITIONAL COSPONSORS

S. 50

At the request of Mr. LOTT, the name of the Senator from Minnesota [Mr. GRAMS] was added as a cosponsor of S. 50, a bill to repeal the increase in tax on Social Security benefits.

S. 104

At the request of Mr. D'AMATO, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of S. 104, a bill to establish the position of Coordinator for Counter-Terrorism within the office of the Secretary of State.

S. 212

At the request of Mr. KERRY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 212, a bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel *Shamrock V*.

S. 213

At the request of Mr. KERRY, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor